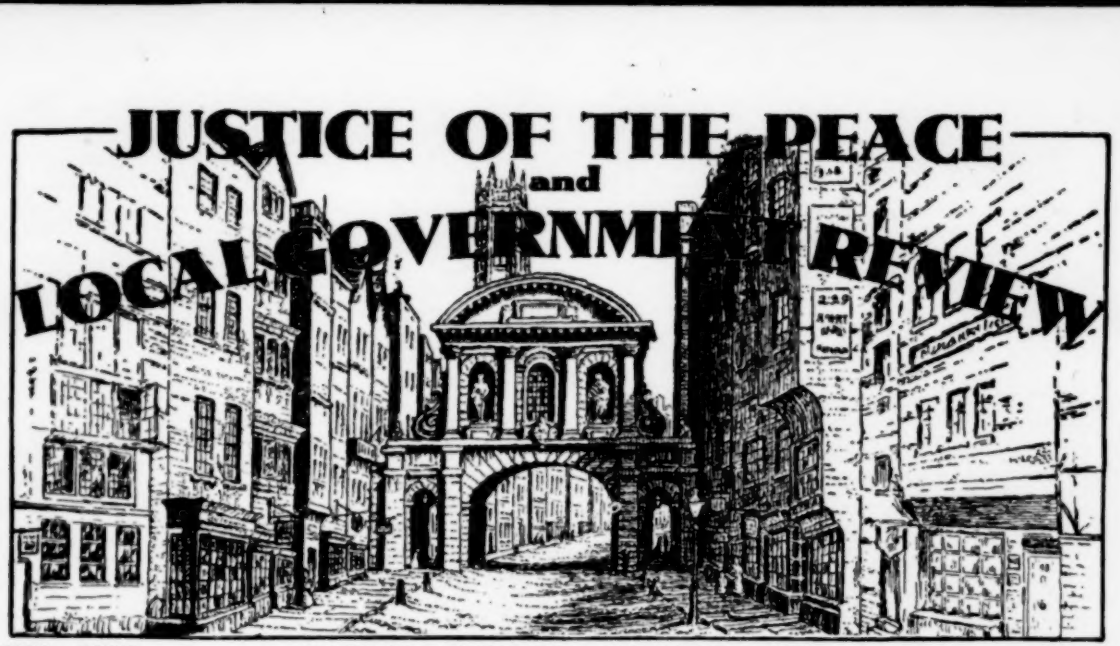

VOL. CXVI LONDON: SATURDAY, JANUARY 5, 1952 No. 1

CONTENTS

REPORTS

Official & Classified Advertisements, etc.

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BOROUGH OF LLANELLY

Appointment of Town Clerk

APPLICATIONS are invited from Solicitors with wide municipal experience for the appointment of Town Clerk at a salary of £1,000 per annum, rising by five yearly increments of £50 to a maximum of £1,250. The post also carries with it the office and duties of Clerk to the Llanelly Harbour Trust.

The successful candidate will be required to devote the whole of his time to the statutory and other duties of the post and all fees and other emoluments must be paid by him into the Rate fund.

The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937 ; a satisfactory medical examination, and termination by two months' notice in writing by either party.

Applications, endorsed "Town Clerk," stating age, qualifications, appointments and experience, and accompanied by copies of two recent testimonials, must be received by the undersigned not later than January 26, 1952.

J. E. V. TAYLOR,
Acting Town Clerk.

Town Hall,
Llanelly.
December, 1951.

BOROUGH OF KING'S LYNN

Appointment of Second Assistant to Clerk to Justices

APPLICATIONS are invited for the appointment of a second assistant to the Clerk to the Borough Justices.

Applicants should have general magisterial experience ; be able to keep the accounts, court registers and other records, and take depositions. Shorthand and typewriting essential.

Salary in accordance with scale of Clerical Division of the National Charter (£445-£490).

The successful candidate will be required to pass a medical examination and to contribute to the King's Lynn Borough Council Superannuation Fund. Applications, stating full details, age and experience, with two testimonials, to the undersigned.

WILLIAM BARON,
Clerk to the Justices.

48, King Street,
King's Lynn.

COUNTY OF LANCASTER

Manchester Petty Sessional Division

Appointment of Deputy Clerk to the Justices

APPLICATIONS are invited from solicitors for the above appointment.

Applicants should have had extensive experience of Magisterial Law and Practice and be capable of acting as Clerk of the Court without supervision.

The salary will be in accordance with Grade X of National Joint Council Scales (£870-£1,000 per annum) ; the commencing salary to be fixed according to the successful candidate's experience.

The person appointed will be required to devote his whole time to the duties of the office and not engage in any other employment.

The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, and the successful applicant will be required to pass a medical examination.

Applications, stating age, qualifications, experience and particulars of positions held in recent years, with the names and addresses of three persons to whom reference may be made, and endorsed "Deputy Clerk" must reach the undersigned not later than January 11, 1952.

G. S. GREEN,
Clerk to the Justices

County Magistrates' Court,
Strangeways,
Manchester, 3.

LANCASHIRE No. 8 COMBINED PROBATION AREA

APPLICATIONS are invited from male probation officers for appointment as Senior Probation Officer in the above area.

The appointment will be in accordance with the provisions of the Probation Rules, and there will be an additional allowance of £50 per annum.

Applications should reach the undersigned on or before January 26, 1952.

J. H. WHITTINGHAM,
Clerk to the Committee of the above Area.

Borough Justices' Clerk's Office,
The Courts, Bolton.

BOROUGH OF ILFORD

Appointment of Junior Assistant Solicitor

APPLICATIONS are invited from Solicitors having less than two years' legal experience from date of admission, for the appointment of Junior Assistant Solicitor on the permanent staff of the Town Clerk's Department, at a salary within the range of A.P.T. Grades Va/VI (£600 per annum—£710 per annum plus London Weighting), the commencing salary therein to be determined in the light of the qualifications and experience of the person selected for the post.

The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937, to the National Scheme of Conditions of Service and to medical examination.

Applications, on forms obtainable from the Town Clerk, Town Hall, Ilford, should be submitted not later than January 21, 1952.

WEST RIDING OF YORKSHIRE COMBINED AREA PROBATION COMMITTEE

Appointment of a Female Probation Officer

APPLICATIONS are invited for the above whole-time appointment.

The officer would be centred at Huddersfield and assigned to the Petty Sessional Divisions of Huddersfield County Borough, Brighouse Borough and Agbrigg Upper.

Applicants must be not less than twenty-three nor more than forty years of age except in the case of whole-time serving officers and persons who have satisfactorily completed a course of training approved by the Secretary of State.

The appointment will be subject to the Probation Rules, 1949, as amended by the Probation Rules, 1950, and to the Local Government Superannuation Act, 1937, as amended by the West Riding County Council (General Powers) Act, 1948.

The successful candidate will be required to pass a medical examination.

Application forms may be obtained from the Principal Probation Officer, West Riding Court House, Wakefield.

Applications, together with two recent testimonials, should be enclosed in a sealed envelope marked "Appointment of Probation Officer," and must reach the undersigned not later than January 29, 1952.

BERNARD KENYON,
Clerk to the Combined Area Probation Committee.

Office of the Clerk of the Peace,
County Hall.
Wakefield.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

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NOTES of the WEEK

The Toll of the Roads

The dreadful disaster to the young cadets at Chatham has directed fresh attention to the problem which still eludes solution, but which every thinking person feels must somehow be solved. How can the appalling number of accidents on our roads be reduced? We hold to the view which we have expressed before that greater personal effort by all road users is essential before real progress can be made. Almost everyone nowadays is at some time a pedestrian and at others a passenger in a motor vehicle, whether a publicly or a privately owned one does not matter. We are all concerned, therefore, to look at the problem both from the point of view of the pedestrian and also from that of the motorist, and one thing which is required is to try to make those two points of view coincide. The pedestrian in a hurry to cross the road when it is not safe for the moment to do so, the motorist in a hurry to overtake when he ought to wait, the cyclist with no rear light, the passenger in a public vehicle who would, if he could, urge the driver to greater speed and possibly greater risks because he has left himself insufficient time to catch his train or keep his appointment; these are not necessarily all different people but may be the same person at different times and in different circumstances. We have, all of us, to make ourselves safety-minded. We must cease to ask what someone else is going to do about it, and must make sure instead that we do all that is necessary on our own account.

One matter causes us a little concern. We read in the press suggestions that a re-drafted Highway Code should be given the force of law. We are, we believe, not alone in feeling that there are already on the statute book (including innumerable regulations, byelaws, etc.) far too many offences punishable by fine or imprisonment, but committed frequently and with the greatest impunity because it is quite impossible even to attempt adequately to enforce them. We are unhappy, therefore, at the thought of still more offences being created by new statutory provisions that, for example, one car may not pass another in various sets of circumstances all more or less difficult to define, and so on. The suggested new offences, if they merit contemplation by the criminal law, would amount, we should have thought, at the least, to driving without due care and attention, or without reasonable consideration for other persons using the road. If they do not, then why make them into offences? If they do, then any policeman available to detect and report their commission will be available equally to report the offenders for offences under s. 11 or s. 12 of the Road Traffic Act, 1930. We hope, therefore, that the authorities will think long and carefully before they decide to give the force of law to a revised Highway code, as suggested, and that they will decide against any such proposal unless they are fully satisfied that the matter cannot be dealt with by strict enforcement of the existing law.

Warrington Juvenile Court

A somewhat despondent note is struck in the report of the chairman of the juvenile court panel for the county borough of Warrington. Not only is the seriousness of the offences committed by juveniles deplored, but also the expenditure of time and the diversion of energy involved in attendance at court of a number of people who ought to be employed elsewhere, to say nothing of the work connected with the institution of proceedings and the making of inquiries. Undoubtedly, the prevelance of juvenile crime is to be lamented, but since it exists we think the time spent by magistrates, prosecutors and others in dealing with it is not really wasted, and that side of the problem need not be over-emphasized. We agree entirely that the prevalence of so much shop-breaking and stealing and serious wilful damage to property is a serious feature of the position in Warrington.

In this report we find the familiar, and in our opinion well-founded, complaint of the absence of parental control. The chairman, Mr. Conway Jones, thinks that many fathers are particularly to blame for leaving too much to a harassed mother with many household duties and taking too little responsibility on themselves. There is certainly something to be said for his view. "Until parentage is regarded as a solemn responsibility to be shared equally, and fathers are prepared to devote as much time and thought to the leisure activities of their sons as they give to their own self-indulgence, we shall continue to breed a succession of mal-adjusted young folk who, in their turn, will become problem parents perpetuating the self-same evils that trouble us today. Juvenile delinquency is largely the problem of the boy who lacks a father's firm but friendly guidance and companionship." Of course, allowance must be made for the exceptional cases in which the hours and conditions of a father's employment make it impossible for him to do as much as he would wish for his children, but the fact remains that many fathers have very little to do with their own children.

As one means of bringing home to parents the results of their laxity, the Warrington juvenile court makes it a practice, when making orders of conditional discharge or probation, to order the payment in full of compensation for loss incurred through wilful damage or theft, as well as costs. This procedure has the further advantage of benefiting the prosecutor and making it plain that the court is not just letting off an offender.

Dirt and Example

One of the penalties of putting industry under public ownership, whether the management be made responsible to the national government or to a locally elected body, is that when something goes wrong it is ground for political attack, and that

the evil is seen out of due proportion. When proceedings in a London court revealed that food had been spoilt by mice nesting in it at a famous stores, nobody thought of blaming the Government then in power, but a telephone subscriber who gets a series of wrong numbers is as likely as not to attribute them to the nationalization of the offending apparatus. The ordinary sensible person assumed that the company's chairman would be as keen as any cat to eradicate the mice from the depôt, but might equally assume that the Postmaster General was as indifferent to the machinery under his control as the Mad Hatter to the functioning of the March Hare's watch. Just so it was inevitable, in a recent case at Stoke-on-Trent, that newspapers should lay upon nationalization the blame for dirty kitchens in the leading hotel of the Potteries. The irony is that it began with a request from the hotel to the council's sanitary inspector, to call and examine supplies coming (we infer) from one of the sources controlled by the Ministry of Food, so that the pot which called the kettle black was found to have a beam in its own eye.

Unjust though it be to take hold of this, and lay it as a last straw upon the outgoing Labour camel's back, the journalists who did so were following a tendency natural to all mankind, and out of the unjustice it may even be that some good will come. When the Lord Mayor of Hull exhorted waitresses in the municipal restaurants to refrain from putting their hair in soup served to the city council's customers, he was indicating to a wider audience that in his view publicly owned premises could set a standard for the rest. In a properly constituted world, it would be a matter of self respect in any business to give honest service to the customers, and especially on the part of the directors and the controlling staff, to attend to their personal duty and to enforce honest service from subordinates. It should make no difference whether their remuneration, which anyhow comes to them from the public, is derived through the forms of nationalized industry or of municipal industry or of private enterprise. We believe it makes, in fact, much less difference than contestants on each side would have their audience believe. At the time of the Brighton case of cruelty to animals in transit, we remarked that the management of the former Southern Railway could not be seriously supposed to have acquired a sadistic streak through their conversion into Southern Region. So we do not suppose the manager of the North Stafford Hotel to have grown indifferent to his duties, or the chef to dirtiness in his own domain, merely because the Hotels Executive of British Transport were substituted for the L.M.S. Railway Company as their titular employers. But this sort of unfair notion may not be altogether a bad thing. The public has an instinctive feeling that public bodies and organizations ought to set a good example, even though it finds it hard to believe that in truth they are doing so. The Hotels Executive could fruitfully use the conviction of its manager at the big hotel at Stoke as a text or jumping-off point, for inculcating further and better precautions in its kitchens and its food stores, setting an example to those belonging to its privately owned competitors, from which fresh standards could spread throughout the trade.

Rights of Way for Vehicles

In recent years we have several times been asked to advise upon the legitimacy as between covenantor and covenantee, or as between a dominant and a servient tenement, of using with motor vehicles a right of way which when granted was contemplated as being used by no more than horse-drawn vehicles. A variant of the same problem is the use by wheeled vehicles of a way created originally as a bridle way or drift way. The problem, which arises most often from the simple fact that vehicles drawn by animals are being supplanted in everyday use by vehicles mechanically propelled, is a real one for landowners and even for local authorities (and this probably is the commonest case which comes to us for advice) where, for instance, a right of way has been created, perhaps dedicated as a highway, or perhaps merely for the purpose of collecting house refuse or something of the sort. If the local authority acquired such a right of way at the beginning of this century or earlier, as often happened when streets were laid out on the old-fashioned plan of two front streets with terraced houses and a narrow road between the gardens at the back, it was not contemplated on either side that the back road would be used by vehicles of heavier weight than the normal horse and cart. The motor lorry of the present day, and the various types of refuse collecting vehicles, are much more destructive to the surface. Sometimes local authorities are sufferers; sometimes they inflict suffering upon a private person who keeps up the surface of the road. The stock English decisions are *Lock* v. *Abercester, Ltd.* [1939] 3 All E.R. 562, and *Kain* v. *Norfolk* [1949] 1 All E.R. 176, the effect of which (where they apply) is that a dedication for vehicular use without express limitation to a class of vehicles carries a right to use the way with a different and more destructive type of vehicle than was first expected. In *Lock* v. *Abercester*, the right of way was by prescription; in *Kain* v. *Norfolk* by express grant. In effect, the landowner of today suffers because his predecessor, in failing to stop another person's use of land or in granting its use for a named purpose, did not possess the gift of prophecy, and therefore did not safeguard the interests of the estate which, ultimately, becomes adversely affected.

Scotch Foresight

That in some cases these decisions may be excluded is shown by a recent Scottish case, *Crawford* v. *Lumsden*, noticed at (1951) 101 L.J.N. 637. There had been a deed executed on November 1, 1916, giving a right of way over certain land with horses and carts, the way being expressed to be as access to a stable, and also for the purpose of carrying out repairs to the grantee's property. Lord Sorn granted a declarator (or, as would be said in this country, a declaratory order or judgment) that the access could be used with motor vehicles. This order was unanimously reversed by the Second Division of the Court of Session, who found in the words of the grant several grounds for distinguishing it from *Lock* v. *Abercester*, *supra*, and even from *Kain* v. *Norfolk*, *supra*, which was very near it on the facts. In *Kain* v. *Norfolk*, the way was given for "horses, carts, and agricultural machines and implements." In *Crawford* v. *Lumsden* there was a similar mention of horses and carts, but the first purpose for which the way over the grantor's land was given was for getting at the grantee's stable. The decision might have been otherwise, if the deed had been executed (say) twenty years earlier, but, having been executed in 1916, which was well within the period when motors were in common use, it would presumably not have mentioned a stable expressly (or a horse) if it had been intended to apply to motor vehicles. This last argument must, however, be regarded as uncertain, for in *Kain* v. *Norfolk* the deed was executed in 1919; it spoke of "horses, carts, and agricultural machines and implements" and the land was then purely agricultural land: yet the grantee's assignee, who was not an agriculturalist but a dealer in sand and ballast, was held entitled to pass and repass with convoys of motor lorries. In the Chancery Division Jenkins, J., delivered a most careful and exhaustive judgment for the defendant, and the case did not go higher. Nor did the decision of Bennett, J., in *Lock* v. *Abercester*, *supra*. In view of the recent Scottish decision on appeal, our own Court of Appeal might on similar language not reach the same decision as did Jenkins, J., so that it may not be safe to rely upon the English judgments of 1939 and 1949.

Jus Morandi

It is a long established practice, amounting to a custom of the constitution, that in the United Kingdom distinctions are not drawn between the legal rights of one of the King's subjects and another, by reason of their origin or their domicile within his dominions. There are, it is true, some special matters such as the making of a will or obtaining a divorce, where a person takes the disabilities belonging to his domicile about with him, as a snail takes the burden of its shell, but we are thinking of the general run of public rights. An example, to which some thoughtful persons are beginning to give particular attention, is the right of entering Great Britain, and remaining here in circumstances when a foreigner could not. Time was when it could be taken as axiomatic that any subject of the Crown could enter any of the dominions of the Crown, and settle there, subject to complying with the laws applicable to persons there already. Hence the enormous influx of Asiatic British subjects into the Union of South Africa and British East Africa, who now constitute a grave problem for the local governments, and, in the Union, have been an unwilling contributory cause to the development of *apartheid*. In this country, the small colonies of Africans, West Indians, or Asiatics, mainly in some few seaports, have never been a major trouble. They kept mostly to themselves, and, if there was some opium smuggled into the ports, and out to the remainder of the country, the harm done was not great. Since 1945, however, there is some reason to fear more ominous developments. A larger number of Africans, and West Indians of African race, than were ever here before the war are finding an easier living in the welfare state than in their colonial homes, and they are scattered widely through the country, inland as well as in the seaport towns. They cannot be deported, as an alien might be in certain contingencies, and the use of imported drugs, in particular, is among the habits more often found among them than among our own people. Moreover, the drugs of addiction are no longer, predominantly, opium and derivatives, with which it is comparatively easy to cope. The implications of the phrase which Palmerston borrowed from St. Paul, *Civis Romanus sum*, are already abandoned in some of the other countries of the Commonwealth, and even in the United Kingdom are wearing thin, with the new-fangled "citizenships" of different sorts and standings, and also with the self governing Dominions evolving their own rules, and with public rights in Great Britain itself no longer linked to allegiance, so that (for instance) the franchise is shared with citizens of a Republic which is not within the Commonwealth. It may be that as yet sufficient ground has not been shown, for legislation distinguishing between British subjects on the ground of their domicile of origin, and any attempt would be fraught with many difficulties and open to obvious attack on ideological grounds, but the time may not be very far away when the problem will have to be faced more frankly than it has been heretofore.

CORRECTIVE TRAINING

By AN EX-TRAINEE

[The following article has been sent to us by a probation officer who has had the after-care of the writer, and who can vouch for its authorship. The man is now twenty-nine years of age, and before being sentenced to corrective training, he had been sentenced to three years in a borstal institution and to imprisonment for periods of two months, twelve months and again two periods of twelve months to run consecutively, his offences having been arson, housebreaking and shopbreaking. He is at present on licence and in work, and he expressed his wish to make known the benefits he considers he received from corrective training. We feel sure our readers will be interested, and we publish his article just as he sent it to us, except for one or two corrections in grammar which he hoped we would make where necessary.—*Ed., J.P. and L.G.R.*]

After reading the many articles that have been written by ex-convicts on the Criminal Justice Act of 1948 and their experiences in prison under the old system, I think that some people may be quite interested to hear how I fared as a person convicted under this new Act and sentenced to three years' corrective training.

Whilst on remand at Winchester prison in November 1949, I was interviewed by the Governor and told that as I had previously been in trouble and had to appear before a sessions, in the event of my being found guilty of the offences for which I had been indicted, I would, if the Prison Commissioners thought fit, be recommended for a period of corrective training.

I appeared at Winchester Assizes on December 6, 1949, where I pleaded guilty to housebreaking and assault. I was sentenced by Mr. Justice Byrne to three years' corrective training and returned to Winchester prison there to await a vacancy at the selection and allocation centre for men serving corrective training sentences at Reading prison. I was transferred in March, 1950, and stayed there until April 30, 1950, when I was transferred to Wakefield prison (Yorks.).

Whilst I was at Reading, I was employed on the monotonous task of sewing mailbags. I underwent a series of interviews and tests which convinced me that at last someone was really interested in me, and that the prison authorities wanted to help, and not just keep me locked in a cell until such time as I was due for discharge—when I would go out with a grudge against everybody, knowing only my old criminal associates, and very soon falling back into the same old routine of cafés, public houses, and prostitutes. During the first fortnight there I was interviewed by the psychiatrists, given various intelligence tests in the class rooms, had two thorough medical examinations, and also an interview with the Chaplain. I went before the selection board (*i.e.*, Governor, Psychiatrist, Chaplain, Prison Commissioner) about a fortnight before I was transferred to Wakefield, and was asked if I had anything to say before I was allocated to a corrective training prison.

Upon my arrival at Wakefield I had a short interview with the housemaster of the wing to which I was allocated and was told by him that there were at least a dozen different vocational training courses in operation in the prison with fully qualified instructors in charge of them, any of which I could put my name down for and be considered for as soon as the current courses ended. There were also evening classes in Art, Maths., English, German, French, Spanish, Weaving, Engineering and various other subjects, any of which I could join as vacancies occurred.

The first few weeks at Wakefield I spent on a general cleaning party, whilst the reports from Reading and Winchester were studied by a committee to whom fell the responsibility of placing me in the work most suitable for me until such time as I took up a vocational training course. I eventually went into the tailor's shop where I spent an interesting twelve months on power machines, making overalls, coats, trousers, shirts and various other things. During this time I had opportunities to get on several of the vocational training courses, but was so

interested in tailoring that I never took them up. In May, 1951, I was called up by the Governor and told that as I had good working reports and had been in no trouble during my sentence I would be given the opportunity to go to an open air camp eight miles from the prison. I think this camp was the deciding factor in my efforts to make good. Whilst there I was given every opportunity to study, and plenty of freedom. I was employed on land reclamation and farming reclaimed land. We worked hard for eight hours a day, but to the men who were there it was a pleasure. After being shut in behind prison walls for months on end, to get out in the fields haymaking and harvesting of an evening after working hours was something to be looked forward to. We had plenty of opportunity for sport and recreation, a full size football pitch, a swimming bath, a games room with billiards, table tennis, darts. There was a quiet room for studying or reading, a wireless room, and the staff did everything to be helpful.

There was no time or inclination to talk about the past; nearly every evening there was something on in camp, such as a lecture by the Economic League, a film of educational value by the Central Office of Information, a whist drive, or perhaps a film (usually a musical) presented by the Prison Visitors—a fine body of men at Wakefield, who never tried to push religion down a man's throat, but talked about everyday things. I had one of these visitors all the time I was there, and he visited me regularly every week. I appreciate the time that man gave up to come and sit in a cold cheerless cell talking to me. Just before I left Wakefield on December 6, 1951, on twelve months' licence, I was seen by a representative of the Central After-Care Association, who informed me that my Associate in London would be a Mr. T and that he would do everything in his power to assist me in getting a good start when I returned home. I cannot say enough for what the C.A.C.A. has done for me. I was fitted out with a new suit, shirts, underwear, overcoat, shoes, overalls and some money so that I would not start off by having to borrow money whilst I was getting settled in my job. I am now working in a good job and, thanks to the Criminal Justice Bill, 1948, well on the way to becoming a decent citizen of use to the community, instead of being as the judge said I would be if I did not take advantage of this opportunity, "A menace to any decent community and to society."

NEW THOUGHTS UPON ADMINISTRATIVE TRIBUNALS

It is a common feature of modern welfare legislation that issues between the general body of taxpayers, represented by a Minister or by some local organ, and an individual should be decided by an administrative tribunal. The object of setting up a tribunal is twofold. First, it relieves the Minister responsible for general control of the service in question of burdensome detailed work, and removes the difficulty (which arises whenever a Minister is responsible for deciding a case in a judicial manner) of saying how far he is to be open to parliamentary challenge. Secondly it removes, or at least diminishes, the area for complaint, upon the ground that a Minister has been made judge in his own cause. English legal and parliamentary opinion, unfortunately as many people think, has never faced consistently the need for administrative tribunals. The view advanced by *Dicey* at one stage, and believed by most people to be the central feature of his teaching (although he modified it later) was that administrative tribunals, particularly on the French model, had been created as a method of securing privilege for public bodies, in contradistinction to the English method which (subject to the Royal Prerogative in case of organs acting for the Crown) left issues between a private person and a public body to be determined by the ordinary courts. Hardly anyone today would seriously maintain the proposition that issues between the public at large and its organs on the one hand, and a private person on the other, should be decided as a matter of course by ordinary courts: the courts themselves have come to see that many such issues are beyond their competence, and lie outside the field in which their special excellence appears. Moreover, the inability of the English legal system to provide inexpensive justice, despite well meant efforts constantly renewed, means that the private person must be at a disability when contesting an issue in the ordinary courts with a public organ. The necessity thus proved of having administrative tribunals of some sort, coupled with unwillingness, for one reason or another, to establish a hierarchical and regular system, has meant that there are a large number of such tribunals in existence, and that their method of appointment, and the precise degree in which they are controllable by the executive government, are not consistent.

A painful case has recently arisen, concerning the chairmanship of the local appeal tribunal established at Leeds for purposes of National Insurance. Mr. G. L. Haggen, a member of the bar who had held the chairmanship of this tribunal and the Court of Referees for over twenty years, came to the end of his period of office in 1951, and found the then Minister of National Insurance, Dr. Summerskill, refusing to renew his appointment. It should be noticed that there was not, as some commentators seem to have supposed, any dismissal. Mr. Haggen's appointment ran, as many such appointments do, for a fixed term, but when a member of the bar well known in his locality has held a chairmanship for many years, and is still to all appearance equal to the work, refusal to reappoint him on the expiry of his existing chairmanship is bound to look, in local eyes, something like dismissal. Our only knowledge of the circumstances arises from paragraphs in local newspapers, which a correspondent in Yorkshire has been good enough to send us. It seems that Dr. Summerskill refused to give any reason for not renewing Mr. Haggen's appointment to the chairmanship. We are not convinced that in declining to give reasons the then Minister was wrong: it is the sort of thing where the assignment of reasons may lead to unseemly controversy. As against this, however, failure to renew an appointment with no reason given, when the appointment might have been expected to be renewed, can be very damaging. After the change of government a question was put in the House of Commons to the new Minister of National Insurance, which drew the answer that Dr. Summerskill had refused to renew the appointment because Mr. Haggen had refused, in certain types of case, to apply the law as interpreted by the National Insurance Commissioner. The present Minister was, no doubt, doing no more than repeat in the House of Commons reasons to be found in office papers: but was not concerned to defend his predecessor's action, which had already taken effect. In a long letter to *The Yorkshire Post* Mr. Haggen denied the truth of the statement that he had refused to apply the law as interpreted by the Commissioner, and gave some instances showing how Dr. Summerskill's misunderstanding of his decisions might have arisen. With these details

we are not here concerned. What does concern us, in common with the legal profession and that part of the public which is interested in such a matter, is the desirability or otherwise of leaving appointments of this judicial nature in other hands than those of the Lord Chancellor. There has been a tendency between 1945 and 1951 to vest in the Lord Chancellor the right of appointing to tribunals of all sorts, a healthy tendency which, like the taking of these matters out of the hands of government departments, will foster confidence. The moral of the whole affair seems to us to be that the time is ripe for fresh and candid examination of the whole field of English administrative law. It is for consideration whether Parliament should go on establishing *ad hoc* tribunals for particular services, or should greatly extend the principle on which the Lands Tribunal has been set up, of having a general central organ of administrative justice which, if fully thought out, might look, after a time, not unlike the *Conseil d'Etat*, and in the course of years to come to occupy the position of respect which the *Conseil d'Etat* now occupies, not merely in France and that large part of the world which has been influenced by French judicial developments, but also within the countries of the common law.

ARBITRATION ANOMALIES

At 115 J.P. 594 there will now be found a full report of the decision of the Divisional Court, in *R.* v. *National Arbitration Tribunal and Another, ex parte South Shields Corporation*. This case arose from the reference to the National Arbitration Tribunal, the place of which has now been taken by the Industrial Disputes Tribunal, of an application for increased salary for the town clerk of South Shields. In order to bring himself within the jurisdiction of the tribunal, he had first to show that he was a " workman " ; this primary fence he crossed without much difficulty, on the authority of *National Association of Local Government Officers* v. *Bolton Corporation* [1942] 2 All E.R. 425, 106 J.P. 255. Secondly, he had to show that the dispute between him and the town council was a " trade dispute " within the meaning of art. 7 of the Conditions of Employment and Arbitration Order, 1940, S.R. & O. 1940, No. 1305, and that it was still within the competence of the tribunal to deal with it notwithstanding the making of the Industrial Disputes Order, 1951, S.I. 1951, No. 1376. This is a new order, in many ways different from that of 1940. The order of 1940 had become unpopular, particularly that part of it which sought to prevent lock-outs and strikes, but, when the new order was made, there were several changes, in addition to the disappearance of the old art. 13, the head and front of its political offending. Among the new provisions was one restricting the jurisdiction of the tribunal to disputes between an employer and " workmen," in the plural, and, inasmuch as the town council had only one town clerk, the dispute was therefore not within the order. The case may be contrasted with another, which culminated in award 57 of the Industrial Disputes Tribunal, and arose out of an application that the county council of Durham should give effect to recommendations of the joint negotiating committee for chief officers of local authorities in respect of salary scales. The council refused to do so, not, it seems, because they thought the scales excessive, but because they were afraid, politically speaking, to give effect to them, and wished to throw the responsibility on someone else. Thereupon, the so-called " trade " dispute, having been reported to the Minister of Labour and National Service, by the National Association of Local Government Officers on behalf of the " workers " mentioned, was on October 17, 1951, referred to the Industrial Disputes Tribunal for settlement, in accordance with the provisions of the Industrial Disputes Order, 1951, *supra*. On September 12, 1950, the joint negotiating committee for chief officers of local authorities, which is composed of representatives appointed by the recognized organizations, of local authorities and of the officers concerned, had issued a memorandum of recommendations in respect of salary scales and conditions of service of accountants and treasurers, engineers and surveyors, chief education officers, and architects in charge of separate departments of local authorities. The scales ran by population, from a minimum of £450 to £2,000, which was for a population not exceeding 600,000, above which salaries were to be at discretion. The memorandum provides that in deciding the scale the authority shall have regard to the responsibilities of the officers and to local factors ; that an authority would not necessarily wish to place each chief officer upon the same scale ; and that upon the initial application of the scales regard shall be had to the length of service of the chief officer concerned, when placing him at an appropriate place within the scale selected. The county council of Durham had refused to adopt the recommendations in respect of the salaries of the county treasurer, the county engineer and surveyor, the county architect, and the Director of Education. The present salary scale of these officers was £1,660 by annual increments of £100 to £2,060. On behalf of the county council it was submitted that at no time did they specifically assent to the proposals of the joint negotiating committee nor were their views ever sought on the recommendations ; that the county council dissented from the recommendations, being of the opinion that the salaries already paid to the officers concerned were adequate for the duties and responsibilities undertaken by them, and in the light of the economic history of the county of Durham ; and that because of the likelihood of public criticism in the electoral field the county council had decided that they would only pay such salaries to their chief officers as were laid down by awards of the tribunal or of the Industrial Court. It was stated on behalf of the council that they had no desire to take advantage of any doubts, if such there were, about the jurisdiction of the tribunal to fix a specific salary scale, and it was the council's wish that the tribunal should make an award specifying the scale of salaries to be paid to the chief officers concerned, and that they would apply the terms of such award without question. In the result, the population being much above 600,000, the tribunal awarded that the minimum commencing salary of the chief officers concerned should be £2,700 *per annum*, with three annual increments of £100.

Here, then, are two cases, from adjacent areas and each involving in effect the same point, for at South Shields, as in Durham, the question was whether a local authority would give effect to a national agreement. Because, in the one case, there were half a dozen " workmen " (of £3,000 a year calibre) their case could be heard. Because, in the other case, the " workman " was unique, his case could not. It is a matter of opinion whether either result considered by itself is satisfactory. There can, we think, be few persons concerned with local government and with the position of local government officers, who can feel satisfaction at the two together, at the technical position, that is, into which employment of these officers has got itself, by reason of legislation designed for an entirely different sort of employment.

MISCELLANEOUS INFORMATION

TITHE ACT, 1951

This Act, which received the Royal Assent on August 1, 1951, amended the provisions of the Tithe Act, 1936, relating to the remission of annuities charged in respect of an agricultural holding.

If the annuities charged in respect of land wholly comprised in an agricultural holding exceed one-third of the annual value of that land for twelve months ending on April 5 in any year, the landowner is entitled, under and subject to s. 14 of the Tithe Act, 1936, to remissions equal in amount to that excess from the instalments due in that year.

Hitherto, annuities which replaced extraordinary tithe rentcharge did not rank for remission, but the Tithe Act, 1951 (s. 10 (8)), has removed that distinction. Henceforth, *all* annuities charged by the Tithe Act, 1936, can be included in any application for remission.

The Act also sets up a new procedure (s. 9) for determining whether the particulars of the agricultural holding and of the charged land within it are correctly stated in the landowner's application to the Surveyor of Taxes for a certificate of annual value. Application for such a certificate must, as heretofore, be made not later than March 1 in each year on the form prescribed by the new rules (Statutory Instrument 1951, No. 1627) which replaces the rules formerly made (S.R. and O. 1936, No. 1012). This form (No. 237) which is obtainable from Inspectors of Taxes, gives full information as to the method of making application, and subsequent procedure.

ROAD ACCIDENTS—OCTOBER, 1951

Casualties on the roads of Great Britain on October totalled 18,597, including 480 killed. Compared with October, 1950, there was a decrease of three in the killed, but an increase of 898 in the total casualties. The number of child casualties, as in several previous months, was higher than a year ago. There were 894 casualties to children on bicycles, an increase of 176 over October, 1950. Casualties to child pedestrians increased by thirty-four to 2,330.

THE LOCAL GOVERNMENT LEGAL SOCIETY

A meeting of the London and Home Counties Branch of the Local Government Legal Society was held at the Law Society, 60, Carey Street, W.C.2, on Friday, November 30, 1951, the chair being taken by Mr. D. F. Bunkall, deputy town clerk of Gravesend.

An address was given by Mr. R. N. Hutchins, chief law officer of the Bracknell New Town Development Corporation, on "Britain's New Towns." He said that there were three possible methods of urban expansion: to build flats in the existing towns, to build suburbs on the fringes of the urban area or to build New Towns. Flats were unpopular in Great Britain and this country was a pioneer in the erection of New Towns. Referring to the relations between the Development Corporations and local authorities, he said that the original local authorities for the area (in most cases there are more than one) retain many of their functions and are responsible for housing the existing population whereas the New Town houses the incoming population. Houses let by the Development Corporation are rent-controlled, unlike local authority houses. The capital required for development is borrowed from the Government and repayable, but the Development Corporation is entitled to the usual housing subsidy, and it is expected that financial adjustments will be made when the New Town is finally handed over to its new local authority. After Mr. Hutchins' talk, questions were asked, and a number of slides were shown of the development of a number of New Towns. A vote of thanks to Mr. Hutchins was proposed by Mr. E. R. West.

Mr. R. P. A. Douglas, assistant solicitor, West Ham, was appointed Hon. Secretary of the branch, in place of Mr. R. H. Morton, who has obtained an appointment in another area.

ECONOMY IN LOCAL GOVERNMENT MANPOWER

The Local Government Manpower Committee, which includes representatives from eight Government Departments and the Associations representing local authorities, has published its second report. The Committee was appointed in January, 1949, to review and co-ordinate the existing arrangements for ensuring economy in the use of manpower by local authorities and by Government Departments concerned with local government matters, and to examine the distribution of functions between central and local government and the possibility of relaxing departmental supervision of local authority activities.

In this second report it is pointed out that many of the recommendations made in the first report have now been put into effect. These include changes in the administration of the Food and Drugs Acts; a simpler procedure for recovering electoral registration expenses; and the adoption of a number of reports affecting, among other subjects, education, compulsory purchase of land, the appointment of medical officers of health and sanitary inspectors, and control of building resources. One recommendation of the Committee which has required legislation has also been implemented. This concerned the procedure for the approval of loans made by metropolitan borough councils, which was dealt with in the London Government Act, 1950. The Committee believe that considerable savings in manpower have been made possible by the adoption of their recommendations, but precise figures cannot be given.

In an appendix to the report now published other recommendations requiring legislation are listed. The Committee do not think that these proposed amendments, in general, involve major issues of Government policy, or that they are controversial.

The Committee believe that they have now completed their main task. The chairman of the Committee from November, 1950, was Mr. E. W. Playfair of the Treasury. The vice-chairman was Sir Arthur Hobhouse, of the County Councils Association.

APPOINTMENTS MADE BY JUSTICES

An Appendix to Home Office Circular No. 247/1951, is as follows:

1. Under various statutes and statutory instruments, the justices of a borough and of a petty sessional division of a county are required to make the following appointments in each year:

(*a*) *Chairman of bench*—at a meeting held before January 1 to take office on January 1;

(*b*) *Licensing committee* (and in a county borough, the confirming and compensation committee; and in a non-county borough, the confirming committee)—at a meeting held (by statute) in October, November or December to take office on January 1.

(*c*) *Justices appointed to act as the judicial authority under the Lunacy Act*, 1890 *and the Mental Deficiency Act*, 1913 (in quarter sessions boroughs)—at a special sessions held (by statute) in October;

(*d*) *Member of prison visiting committee* (in some boroughs)—at a meeting held in the first whole week after December 28 to take office not later than the beginning of February;

(*e*) *Juvenile court panel*—at a meeting held every three years before November 1, to take office on November 1;

(*f*) *Probation and case committees*—at various times depending on the area.

To these is now added the appointment each year of a member (or members) of the magistrates' courts committee.

Annual Business Meeting of Justices

2. The Secretary of State considers that it would be advantageous for arrangements to be made so that all these appointments could be made at a single annual business meeting of the justices in each borough and petty sessional division. Accordingly provision has been or will be made to enable all appointments to be made at a business meeting held in October each year beginning in 1952, as follows:

(i) the Justices of the Peace (Size and Chairmanship of Bench) (Amendment) Rules, 1951, require that the chairman of the bench shall be appointed at a meeting, of which at least seven days' notice must be given, held in October, beginning in 1952;

(ii) regulation 3 of the Magistrates' Courts Committee (Constitution) Regulations, 1951, requires that the appointment of the member(s) of the magistrates' courts committee shall be made at this meeting, beginning in 1953;

(iii) the Prison Rules will be amended to require that, in a borough, the appointment of a member of a prison visiting committee shall be made at this meeting, beginning in 1952.

The Secretary of State further sugests that:

(iv) the appointment of the juvenile court panel should be made triennially at this meeting, beginning in 1952;

(v) the appointment of the licensing committee, and, in a borough, the compensation and confirming committee or the confirming committee, should be made at this meeting;

(vi) in a quarter sessions borough, the appointment of justices to act as the judicial authority under the Lunacy Act, 1890 and the Mental Deficiency Act, 1913, should be made at this meeting.

(vii) the appointment of members of probation and case committees should be made at this meeting. (This can already be done conveniently where the members take office during the few months following October: where this is not so, a single area probation committee can in pursuance of r. 9 (2) (*a*) of the Probation Rules, 1949 alter the date, and for a combined probation area the Secretary of State would be prepared to amend the date specified in the combining order on the application of the probation committee.)

REBUILDING AND ENLARGEMENT "TOLERANCES"

Central Land Board Announcement

The effect of paras. 1 and 3 of sch. 3 of the Town and Country Planning Act, 1947, together with the Exemption Regulations (S.I. 1950 No. 1233) is to provide an exemption from development charge when buildings are rebuilt, enlarged by ten *per cent.* (or by 7,500 cubic feet in the case of houses) or enlarged to a similar extent on rebuilding. The Central Land Board will treat as exempt any rebuilding or enlargement within these tolerances provided it takes place within the curtilage as it exists at the time the development takes place.

When the addition of land to the curtilage of a building results in a material change of use of that land, planning permission is required and a liability to development charge arises. Consent value for the purpose of assessing development charge in these circumstances will necessarily be affected by the principles set out above, especially if the curtillage without the additional land is not large enough to allow the carrying out of the full rebuilding and enlargement tolerances thereon.

REBUILDING—OTHER THAN DWELLING-HOUSES

Third Schedule Rights

The Central Land Board will regard sch. 3 of the Town and Country Planning Act, 1947, as permitting a single building, other than a dwelling-house, to be rebuilt free of development charge as two or more buildings which together comprise not more than the cubic content of the original building, plus any available enlargement tolerance.

Where such a building, or its foundation site, is sold in two or more parts, the purchaser of any part will therefore have the right (provided it has not already been exercised) to rebuild free of development charge on his land a building not larger in cubic content than that part of the original building which formerly stood upon it, plus any available tolerance.

REVIEWS

Lumley's Public Health. Twelfth Edition, Volume VII. London: Butterworth & Co. (Publishers) Ltd. and Shaw & Sons, Ltd. Price £5 5s. net.

Volume VII of *Lumley* is the second half of the collection of Statutory Rules and Orders, Statutory Instruments, Memoranda, and Circulars, which in the Eleventh Edition could still go into the compass of a single volume. The fact that what was once volume III has now become volumes VI and VII is yet one more indication of the increased bulk of the law, with which the practitioner must try to make himself familiar: it is multiplication of subordinate instruments and governmental memoranda which has largely accounted for the over all growth of *Lumley* from five volumes to seven. The volume now before us begins with "Land: acquisition, etc." and ends with "Water Supply": it is, that is to say, the second half of an alphabetical arrangement of all the most important subordinate law in the local government field. Among the topics covered, the most voluminous title appears to be "Town and Country Planning," as might be expected. This is run pretty close by "Maternity, Child Welfare, and Midwives," and by "Superannuation," but while "Town and Country Planning" and "Superannuation" have been the subject of specific textbooks, there are other matters in the present volume for which the local government practitioner (at all events) may not elsewhere than here have ready means of search—for example, the important topic already mentioned, of the acquisition of land, with the instruments and circulars relating to the Lands Tribunal; those relating to Port Health Authorities and Aircraft, and to Sea Defence. As in the Eleventh Edition, all the working law (so far as contained in Statutory Instruments and among Memoranda and Circulars issued from Government Departments on the subjects dealt with) will be found here. Even though some topics such as "Town and Country Planning," or "Rating and Valuation" overlap information collected in other works, it will, for many practitioners and public officers, especially those of the smaller local authorities who cannot afford a variety of expensive books, be an immense convenience to have so wide a selection in the two volumes (VI and VII) of *Lumley*. In saying this we are assuming that there can hardly be a local authority so short-sighted as to try to do without *Lumley*, even at its new, unavoidably substantial, price. The size and cost of the work may make it a difficult purchase for a solicitor in private practice, and even so long ago as the Tenth Edition, which reached the dimensions of three volumes, we can remember this being said. But if such a solicitor has, or hopes to secure, any appreciable volume of work in rating, in advising builders, or in advising traders who may come into conflict with public health authorities, he will find the money well invested.

The present volume starts with page 1247 and ends with 2774. In all this bulk of more than 1,500 pages, there is nothing but what may be wanted at any time in local government work, or in the office of a solicitor whose clients have become in one way or another involved with some public body—as every property owner and nearly ever trader is unavoidably involved under modern legislation.

As the learned Editors imply in their preface, there is not, in a book collecting official circulars and memoranda and Statutory Instruments, great scope for specifically legal editing: in the main the governmental documents as issued tell their own story, but the editors have supplied such cross-references, notes of repeals, and so forth, as are necessary. It was inevitable that the editors and publishers should have been not quite able to keep up with the march of events: for example, the date of completion was August, 1951, so that the transfer of functions to the Minister of Local Government and Planning was caught, but the further transfer (brought about by the change of Government) to the Minister of Housing and Local Government escaped the net. This is mentioned in no spirit of criticism, but merely for the sake of completeness, and to illustrate that, in face of the way things are done nowadays at the centre of government, not even the best textbook can always be complete. That *Lumley* is best within its own field has now for long been settled; the present volume (the second half of the collection of subordinate instruments forming part of the plan of the Twelfth Edition) is a necessary portion of that plan, and can be accepted with volume VI as the official's or practitioner's primary companion to subordinate legislation affecting public health, local government, and all the most important cognate topics.

Landlord and Tenant. By R. Borregaard. Third Edition. London: Stevens and Sons, Ltd. 1951. Price 6s. net.

We have noticed, as they appeared, the earlier editions of this useful contribution to *This is the Law*. Rent restriction, which forms so large a part of the working law of landlord and tenant at the present day, has been dealt with in another booklet in the series, and does not feature prominently in that now before us, although there is, as there was bound to be, a chapter summarizing briefly its main features. The occasion for issuing the third edition is the passing of the Leasehold Property (Temporary Provisions) Act, 1951, which increases the security of tenure available in residential properties and shop properties. The opportunity has been taken to revise the text of earlier chapters. While a booklet such as this is not likely to be regularly used by our own readers, it is one which they can confidently bring to the notice of clients or non-legal friends. Particularly valuable is the introduction, headed "Some popular fallacies." The illusion persists that the landlord of residential property, in particular, is ordinarily under obligation to keep it in repair: while this is perhaps the commonest cause of disappointment to tenants, who have not made agreements expressly stating their own and their landlords' obligations, there are plenty of others. Mr. Borregaard very properly advises that professional assistance should be obtained, in the making of tenancy agreements, but this is (it is to be feared) a counsel of perfection in most ordinary cases: even lessors, who could usually afford proper advice more easily than lessees, are all too often content to rely upon estate agents who have no sufficient qualification, and much unhappiness results. If they read a booklet like the one before us, they and their tenants would be all the better for it—an increase of price from 4*s.* for the earlier editions to 6*s.* seems unfortunate, for a hundred small pages in a paper cover, but we suppose could not be helped. The booklet deals not merely with residential properties but with farms and business premises generally, and has a particularly helpful chapter upon tenant's compensation.

Leading Cases in a Nutshell. Fourth edition. By E. S. Fay. London: Sweet and Maxwell, Ltd. Price 6s. 6d.

The Nutshell series must be a boon and a blessing to students, and they are not without their uses for the practitioner on occasions when he wants a pocket-book rather then a text-book or a volume or

two of reports. This one has run to four editions and has evidently proved its worth.

The cases are preceded by an excellent history of the courts and the subjects covered in the cases digested deal with constitutional law, criminal law, evidence, contract, tort, real property and equity.

The price, 6s. 6d., is modest indeed for so much information so well chosen and so well presented.

The Law and Practice of Town and Country Planning. By Percy Lamb, K.C., Montagu Evans and Alan Fletcher. London: Staples Press, Ltd. Price 63s. net.

This is a substantial book, and the Staples Press, who have we understand entered, comparatively recently, on the field of law publishing, are to be congratulated on adding to their productions a book upon so difficult, and so universally important, a subject, and doing so under such able editorship. Mr. Lamb and Mr. Fletcher are members of the bar, and Mr. Montagu Evans is a well known practising surveyor, whose contributions to the book will make it of value, both to his own and the allied professions who are concerned with the development of land, and also to any legal readers who find difficulty in understanding the approach made by other professions. The plan of the book is to expound its topic in chapters, classified by subject, instead of following the arrangement of the Town and Country Planning Act, 1947. From the point of view, of the non-legal reader this is likely to be useful, especially since the whole is preceded by introductory chapters upon the history and detailed scope of the Act of 1947. The historical chapter is not wholly accurate, in its references to the Acts before 1909, and it makes too little of the Act of 1943, which was revolutionary, but at the present day these faults may be academic. Thereafter, the reader will find such matters as development plans, compensation for compulsory acquisition, compensation for depreciation, and development charges, dealt with separately: indeed the twenty chapters and six appendices seem, so far as we have been able to discover, to contain, though with one important gap at least, most of what is needed in everyday work. This said, we are not sure that for the needs of our own readers arrangement in this way is the best possible plan. In particular, provisions of the Act, provisions of Statutory Instruments or official memoranda, and editorial exposition are in places hard to disentangle. It may however be partly because we have got into the habit of using one or other of the existing books, differently planned, that we have found some difficulty, in looking through this new work, in finding things we wanted—a difficulty enhanced by an index which is rather sketchy and not wholly accurate, and by the absence of a table of cases. As the learned editors remark in their preface, there is very little direct judicial authority as yet upon the Act of 1947, but we think cases under the old law could often have been usefully included. Moreover the table of statutes and index wholly omit the Act of 1947 itself (and the earlier Acts are set down without references to sections) so that it is impossible to pick up a subject which the indexer happens not to have mentioned. We became alive to this in connexion with what we have said above about one or more important gaps. Although the date of publication was November 23, 1951, the preface is dated February 15, and speaks of the Order in Council transferring planning functions to the Minister of Local Government and Planning as something just received, and of "an amending Bill before Parliament, to which reference is not possible as it is not known in what way it will be amended before it reaches the Statute Book." Even the title of that Bill is not given: it must have been the Bill for the Town and Country Planning (Amendment) Act, 1951, which became law in March, and was far too important for such cavalier dismissal. Noticing this led to our searching for the editors' treatment of the "four year" trouble, in regard to the enforcement of conditions, of which in relation to s. 23 (1) of the Act of 1947 we had ourselves written at length at 113 J.P.N. 186, and which was set right by s. 2 of the Act of 1951. Our search was unsuccessful. Neither "conditions" nor "previous planning control" is mentioned in the index: "Control, planning of, enforcement" is mentioned, but leads to a brief exposition of s. 23, in which the four year period is not even mentioned—so that the exposition was seriously misleading, even before the Act of 1951. So far, the blame for the deficiency must rest upon the editors, but the publishers, seeing that the book was some nine months in production, ought at least to have been put upon inquiry by what their editors had in February said about a Bill. They would then, presumably, have inserted a copy of the Act of 1951, which could have been squeezed on to two sides of one page, before the final stitching up or, if this was prevented by technical causes in production, should have issued it as a looseleaf inset. However, apart from enforcement, which is exceedingly important to the average property owner, but is too briefly treated, and from the Act of 1951, the surveyor, who has to obtain general acquaintance with the legal provisions involved where the Act affects his work, and the solicitor in ordinary practice, to whom happily town and country planning is not of everyday importance, will probably find most of what either needs to know, about the provisions of the Act of 1947 and practice thereunder.

The Technique of Advocacy. By John H. Munkman. London: Stevens & Sons, Ltd. Price 17s. 6d. net.

In his preface, Mr. Munkman is very modest about his own achievements as an advocate, but it is impossible to read his book without strongly suspecting that he is much better at this fascinating type of work than he would have us believe. He has thought deeply and read widely and he has now set down the result of his learning and experience for the benefit of students in particular and for advocates in general if they care to profit by it.

The author says he has avoided "anecdotes and witty repartees which do not advance one's knowledge of technique." That does not mean that this is a dull book; there are abundant quotations illustrating notable cross-examinations and other features of famous trials, and the methods of some of the most distinguished advocates are used as illustrations. Any reader who has any desire to become a good advocate will study it to his advantage, and many another who is interested as an onlooker or even as one who likes to read about courts and lawyers, will read it all through with real enjoyment.

Since advocacy is an art, it has to be realized that it cannot be taught like an exact science; but, like other arts, it has a technique which can be learned and applied according to certain general principles. The advocate is fortunate if he has a pleasing voice, but at least he can cultivate an audible voice and a pleasant manner, to which he should be able to add a good command of words and an easy style.

In good advocacy there must be much preparatory work before the advocate goes into court. He must think things over, analyse the case, decide generally what line he will take, what he will ask his own witnesses and, so far as he can anticipate, how he will cross-examine opposing witnesses. He must have a clear plan of action, but he must be able to adapt that plan to unexpected developments. There are many ways of testing witnesses, and effective cross-examination can often expose the dishonest or correct the inaccurate witness. Speeches, too, need to be thought out so as to be delivered in the most convincing way. After all, the art of advocacy is largely the art of persuasion.

Mr. Munkman has gone into every detail concerning the task of the advocate, from start to finish, examining everything critically and logically. Nor does he overlook the ethics and the professional standards that should always be present to the mind of the advocate. If, in a sense, he occupies a position of privilege, that position is also one of responsibility. No one can read Mr. Munkman's book without being impressed by his sense of that responsibility and of the duty of an advocate, not only to his own client, but also to the court, and to the public to whom the due administration of justice means so much.

Unfair Comment upon Some Victorian Murder Trials. By Jack Smith-Hughes. London: Cassell & Co., Ltd. Price 21s. net.

The title indicates the purpose of the author, which is to retell the stories of seven murder mysteries after such a lapse of time as to justify criticism of persons and verdicts in a way which could not have been permitted as "fair comment" at the time of the events or soon after. Thus, three of the murder trials resulted in acquittal, and Mr. Smith-Hughes is evidently not completely satisfied as to the correctness of the verdicts. Moreover, he has some plain criticisms of judges and other personalities.

The stories are often gruesome, and the author is not at all sparing of details but if some readers find there is too much of this others will find the method entirely to their taste. However, there is more in the book than a mere recital of crimes, often with revolting features. There is some law in it, and the author is a lawyer who can discuss legal points and doctrines. He evidently thinks that one at least of the acquittals was due in some part to the exclusion of evidence which by English law was inadmissible as hearsay, but which might have been admitted and turned the scales if the trial had been in France.

Perhaps the best known of the cases included is the trial of Dudley and Stephens for murder, on which text books tell us: "A man who, in order to escape death from hunger kills another for the purpose of eating his flesh is guilty of murder; although at the time of the act he is in such circumstances that he believes, and has reasonable ground for believing that it affords the only chance of preserving his own life." It is a leading case, and it is also a story of terrible sufferings and of the killing of an innocent boy by shipwrecked men who seemed to think they were doing nothing wrong, as was evidenced by the fact that they made no secret of it, although they could easily have covered up all traces and told a story that would almost certainly have been accepted.

All the cases referred to happened in mid-Victorian times and most of them will be new to the majority of readers.

CORRESPONDENCE

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

FOOD STANDARDS PROSECUTIONS

Your learned correspondent in stating that prosecutions under s. 3 of the Food and Drugs Act, 1938, in respect of food not complying with Food Standards Orders are bad in law appears to have overlooked or ignored the effect of art. 1 (2) of the Food Standards (General Provisions) Order, 1944.

This article provides that a person selling food of a kind for which a standard is prescribed shall be deemed to sell food of that standard.

Any sale of a food for which a standard has been prescribed must, if the food be not up to standard, therefore be a sale to the prejudice of the purchaser within the meaning of s. 3.

Standards laid down under Food Standards Orders are made for a different purpose from those laid down in Control Orders and it would appear that art. 1 (2) of the General Provisions Order, 1944, was specifically framed to enable prosecutions be to brought under s. 3 of the Food and Drugs Act if so desired.

Your faithfully,
J. E. S. RICARDO.

13 King's Bench Walk,
Temple, E.C.4.

Our learned contributor, Mr. H. A. H. Walter, writes as follows :

I did not write, nor do I think, that prosecutions under s. 3 of the Food and Drugs Act, 1938, in respect of food not complying with Food Standards Orders are bad in law.

I might usefully have added that if there were any purpose in doing so, proceedings for infringements of the orders made under the Defence (Sale of Food) Regulations, (*e.g.*, about self-raising flour or mustard) could be brought under s. 3 of the Food and Drugs Act, 1938, instead of under the regulations.

I had not overlooked or ignored the effect of art. 1 (2) of the Food Standards (General Provisions) Order, 1944 but that order refers only to standards prescribed by orders made under the Defence (Sale of Food) Regulations, 1943 ; it has no bearing at all on standards prescribed under the Defence (General) Regulations.

The whole point of my article was to suggest that no proceedings under s. 3 of the Food and Drugs Act are available to food and drugs authorities if the standard of the food in question has been prescribed under the Defence (General) Regulations to which the Food Standards (General Provisions) Order, 1944, makes no reference whatever. Article 1 (2) of the 1944 Order refers to food " for which a standard is so prescribed," and that means prescribed " pursuant to reg. 2 of the Defence (Sale of Food) Regulations, 1943," (art. 1 (1) of the 1944 Order).

I do, however, plead guilty to one mistake in my article which has been pointed out to me. The offence referred to in the last part of my article is, of course, a breach of control and carries much heavier penalties on summary conviction than those mentioned in my article. This fact only reinforces my argument that it is absurd, even if legal, to bring proceedings under the Food and Drugs Act, where the maximum penalty on summary conviction is only £20 for a first offence.

The Editor,
Justice of the Peace and
Local Government Review.

DEAR SIR,

ROAD TRAFFIC—ACCIDENT, DUTY TO REPORT—VEHICLE STATIONARY

I have recently had occasion to consider a case the facts of which were identical with those set out in P.P. 14 at 115 J.P.N. 786. After careful thought I arrived at a contrary opinion to that expressed in your answer, and I feel it only right that I should put forward the reasons on which my view was based for your consideration, and that of your readers if you are good enough to publish this letter.

In considering whether s. 22 of the Road Traffic Act, 1930, could be invoked in the event of a person opening the door of a stationary vehicle I considered the words " shall stop " and " after an accident had occurred " in subs. (1). These words seem to me clearly to indicate that a moving vehicle was contemplated. If not such words as " shall remain at rest " would have been included in the section. In subs. (2) the words " any such accident as aforesaid " link that limb of the section to the first. The section as a whole uses the words " the driver shall " (or their equivalent) which appear to make it an offence in connexion with driving which is envisaged.

In view of that I then considered the case of *Shears* v. *Matthews* (1948) 113 J.P. 36 and what effect that case could have upon a possible prosecution based on the circumstances outlined. I came to the conclusion that since *Shears* v. *Matthews* held that the opening of the door of a stationary vehicle was not an offence in connexion with driving, and since my view was that s. 22 of the Road Traffic Act, 1930, was aimed at offences in connexion with driving therefore it would be quite wrong for a charge to be framed under that section where the facts were as disclosed in the Practical Point.

Indeed I would go further and say that if a vehicle is stationary and another ran into it, there is no obligation on the part of the person in charge of the stationary vehicle to report such an accident. It would be difficult, of course, if, *e.g.*, the accident occurred while the vehicle was stationary (but with the engine running or even recently stalled) while in a traffic jam, and I would be the first to agree that no hard and fast rule can be applied but that each case would depend upon the particular set of circumstances.

To carry the matter further still, s. 40 of the Road Traffic Act, 1930, could be considered in the same light. Is the person in charge of a stationary vehicle bound to report to a police station or to a police constable and produce his certificate of insurance in the event of personal injury in, for instance, the circumstances outlined in the Practical Point ? I say no, having regard to the reasons I have given above.

With regard to the definitions of " driver " and " drive " in s. 121 of the Road Traffic Act, 1930, I feel that it does not alter the position at all since there is never any question of having a person on say a private motor car separately acting as steersman, although I agree that for the purpose of the Road Traffic Act, 1930, a steersman is deemed to be a driver. However, when is a person a steersman ? Without prolonging my letter more than necessary, I submit that in no circumstances could a person sitting in a stationary car be held to be a steersman and hence a driver for the purpose of a successful prosecution under the Road Traffic Act, 1930.

Yours faithfully,
E. S. GONNING.
Deputy Clerk to the Justices.

Justices' Clerk's Office,
1 Nelson Street,
Southend-on-Sea.

[We appreciate the point of our correspondent's argument but we are unable to agree with him. In s. 22 the essential words, in our view, are " if in any case, *owing to the presence of a motor vehicle on a road,*" and the section nowhere requires that the vehicle shall be in motion at the time of the accident. The requirement that the vehicle shall stop means, in our view, that a moving vehicle shall come to rest, and that a stationary vehicle shall remain stationary, so that the necessary particulars may be given. It is the giving of the particulars and the ensuring of an opportunity for so doing that the section is concerned with. Consider, for example, the driver who commits an offence against s. 50 of the 1930 Act. If, by leaving his vehicle in a dangerous position, he causes an accident we think he is required to give particulars under s. 22.

If it is once accepted that the section applies to a vehicle stationary at the time of the accident, we see no reason to exclude the case of the driver who causes an accident by opening the door of his car without due regard for other traffic. But for the presence of his vehicle on the road the accident could not have happened. In *Shears* v. *Matthews* (*supra*) the Lord Chief Justice said specifically that the defendant in question was certainly the driver of the vehicle, but that the negligence in that case was not in connexion with the driving as it must be under that part of s. 78 of the Highways Act, 1835. We think there is in s. 22 no requirement and no implication, beyond the requirement to stop with which we have already dealt, that the accident has to be in connexion with the driving of the vehicle. The requirement is that it must happen owing to the presence of the vehicle on the road.—*Ed. J.P. and G.L.R.*]

CHARACTER

How odd a conception of character
At the Criminal Bar's understood,
When by dint of a dearth of convictions
A character's said to be good.

J.P.C.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 1

A FARMER FAILED TO REPORT THE DEATH OF SOME PIGS

A farmer appeared before the Walsall justices recently, charged for that he, being the owner of pigs at an infected place, failed to give notice of the death of three pigs and one sucking pig to a constable of the police force for the police area in which the carcases were, contrary to art. 4, r. 4, of the Swine Fever Order, 1938.

The prosecution stated that the Ministry of Agriculture was seriously concerned about outbreaks of swine fever. The defendant, who pleaded guilty to the charge, stated that having called in a veterinary surgeon and reported the first death to the police, he thought he was in order in disposing of the remaining carcases without reporting the deaths. The defendant disposed of the carcases by putting them down an old well shaft, where they remained for a considerable period owing to the difficulty of removing them from a deep well.

The justices took a serious view of the case as infection spreads so easily, and it might well have been the fact that the carcases were infected, the more so as the first carcase which was examined was found to be infected.

The defendant was fined £10.

COMMENT

The Swine Fever Order of 1938, which was made by the Minister of Agriculture and Fisheries by virtue of the powers vested in him under the Diseases of Animals Acts, 1894 to 1937, contains stringent provisions designed to prevent the spread of swine fever. Article I renders it obligatory for any person having in his possession a pig affected with, or suspected of being affected with, swine fever, to notify the local police forthwith, and art. 4, which contains eight rules to be observed in relation to infected places, provides, *inter alia*, that notice of the death of any pig in an infected place must be given forthwith to a local police officer.

(The writer is indebted to Mr. B. Price Francis, LL.B., D.P.A., clerk to the Walsall Justices for information in regard to this case.) R.L.H.

No. 2

A TOXOPHILIST IN TROUBLE

A warrant officer in the R.A.F. appeared recently at Richmond Magistrates' Court charged with an offence under s. 56 of the British Transport Commission Act, 1949.

For the prosecution, it was stated that as a train was travelling between St. Margarets and Richmond a passenger was surprised when an arrow entered the window of the carriage in which he was seated. The passenger handed the arrow to the guard and the guard communicated with the police. The defendant was interviewed by the police and stated that he had shot an arrow at a friend who was standing with his back to the railway when they were in the Old Deer Park and the arrow had, by mischance, missed his friend and entered the train !

The magistrates imposed a fine of 20*s*.

COMMENT

Section 56 of the Act provides that any person who unlawfully throws or causes to fall or strike at, against, into or upon any engine tender, motor carriage or truck used upon the railway . . . any stone, matter or thing likely to cause damage or injury to persons or property shall be liable to a penalty not exceeding 40*s*.

The writer feels grave doubt as to whether the parliamentary draftsman, when drafting this section, had in mind circumstances such as those which are reported above, but there can be no doubt that the defendant brought himself clearly within the ambit of the section.

(The writer is indebted to Mr. E. Dodds, clerk to the Richmond Justices, for information in regard to this case.) R.L.H.

No. 3

A WEDDING INCIDENT

A twenty-one year old Yorkshire mill hand appeared at Bradford Magistrates' Court recently, charged with maliciously defacing a railway carriage contrary to byelaw 18 of the London, Midland and Scottish Railways Bye Laws, 1926.

For the prosecution it was stated that a crowd of relatives and friends gathered on the platform to say good-bye to a newly married couple. On the train there had been chalked the words "Honeymoon Express" and on the door of the compartment in five inch letters was the warning "Keep out—just married."

The prosecution stated that there had been too many people doing the same thing, and that damage to public property could not be tolerated because public money was involved. It was stated that it would cost £5 to remove the scratches on the carriage door.

The defendant, who pleaded not guilty, was discharged conditionally and ordered to pay 30*s*. costs.

COMMENT

It is apparent from this report that another old English custom is likely to fall into desuetude and there will be some who will consider this to be another unfortunate consequence of the nationalization of the railways !

(The writer is indebted to Mr. Frank Owens, clerk to the Bradford Justices for information in regard to this case.) R.L.H.

No. 4

A BIGAMIST HEAVILY PUNISHED

An unemployed man of forty-three appeared recently at Cardiff Assizes charged with bigamy, contrary to s. 57 of the Offences Against the Person Act, 1861.

For the prosecution it was stated that the defendant, who pleaded guilty, was married at Swansea in 1940. He was serving in the army at the time and was not released until 1949, when he lived with his wife for about twelve months and then deserted her. In October, 1951, posing as a bachelor, he went through a form of marriage with a sixty year old woman who, said the prosecution, was infatuated with the defendant.

The defendant was seen by a police constable during the week following the bigamous marriage and said: "Yes, it is quite true. I knew it was bigamy. I married Mrs. X because I loved her."

Defendant was also charged with stealing £2 from a wallet belonging to Mrs. X's son, and he pleaded guilty to this charge also.

A police inspector stated that defendant was sentenced to nine months' imprisonment in 1941 for bigamy and in November, 1944, he was sent to prison for six months on four charges of theft and four of false pretences. In 1950 he was sent to prison for six months on thirty-nine charges of fraudulent conversion.

Defendant, who was not represented, told the court that he believed that if he had met the right person in the first place he would not have had to stand in the dock.

Mr. Justice Jones, in sentencing the defendant to two years' imprisonment, stated that it was quite impossible to treat the offence lightly.

COMMENT

The maximum punishment upon conviction for bigamy is seven years' imprisonment and the offence is not triable at quarter sessions.

There have probably been more High Court decisions arising out of charges brought under s. 57 of the Offences Against the Person Act, 1861, than under almost any other section of the criminal law, for many difficulties have been caused by marriages in churches other than the Church of England and the laws governing marriages and divorces effected abroad have also caused great difficulties. It is not common to find a man convicted twice of an offence against s. 57 and it is also rare for so substantial a punishment to be inflicted upon an offender, but it will be noted that the previous record of this particular offender could scarcely have been worse.

R.L.H.

PENALTIES

Aberystwyth—November, 1951—(1) driving without due care and attention, (2) driving a bus without the owner's consent, (3) no insurance policy—fined a total of £20.

Aberystwyth—November, 1951—aiding and abetting each of the charges referred to above—fined a total of £15.

Defendants, university students, aged nineteen and twenty-two respectively, took the bus as a practical joke during an inter-college debate. The bus was driven in a zig-zag manner scattering people, damaging seats, a stationery car, and the wall of flower bed.

Llandilo—November, 1951—selling milk containing added water (two charges)—fined a total of £12. To pay £2 2*s*. costs.

Bristol—December, 1951—stealing 11*s*. 9*d*. and 12*s*. from employers (two charges). Fined a total of £5. Defendant, a thirty-five year old cashier employed in the grill room of a restaurant, asked for two similar charges to be taken into consideration. Defendant altered the carbon copies of bills delivered to customers by omitting certain items and pocketed the money attributable to such items.

NEW YEAR HONOURS

KNIGHTS BACHELOR

Campbell, Colin, town clerk of Plymouth.
Hills, Reginald Playfair, junior common law counsel to the Board of Inland Revenue.
Poyser, Arthur Hampden Ronald Wastell, Master in Lunacy, Supreme Court of Judicature.
Shennan, Alderman Alfred Ernest, Liverpool.

ORDER OF THE BRITISH EMPIRE

C.B.E.
Jackson, Alderman W. P., Manchester.
McNaughten, J., chairman, Argyll Education Committee.

O.B.E.
Adams, J. W. R., county planning officer, Kent County Council.
Berry, R. G., town clerk of Battersea.
Johnston, A. J., assistant to Master in Lunacy, Supreme Court of Judicature.
McInnes, A., chief constable, City of Perth.
Cowpe-Pendleton, E. W., chief constable, Coventry city police force.
Routledge, A. G. H., mayor of Carlisle.
Waggott, E. J., town clerk of West Hartlepool.
Wilson, R. P. S., chief constable of West Sussex.

M.B.E.
Coutts, J., superintendent and deputy chief constable, Perthshire and Kinross-shire constabulary.
Cutts, Alderman H., West Riding of Yorks.
Dunn, J. L., chief superintendent, West Riding Constabulary.
Hampson, E. T., councillor, Wigan R.D.C.
Kane, J., No. 4 District Police Centre, Eccleshall.
Millar, Capt. K. B., superintendent, Royal Courts of Justice, Supreme Court of Judicature.

BRITISH EMPIRE MEDAL

Danby, Miss M. E., chief inspector, West Riding of Yorks Constabulary.
Ingham, T. H., inspector, Gwynedd special constabulary.

THE KING'S POLICE AND FIRE SERVICES MEDAL

Jackson, G. S., chief constable, Newcastle-on-Tyne police force.
Lockett, D., chief constable, Tynemouth borough police force.
Yates, Maj. L. W. P., chief constable, Dorset Constabulary.
Simpson, J., chief constable, Surrey Constabulary.
Young, Col. A. E., Commissioner of Police for City of London.
Nixon, R. F., assistant chief constable, Wiltshire Constabulary.
Parnham, Willie, M.B.E., assistant chief constable, City of Sheffield police force.
Broughton, C. J., chief superintendent, Kent County Constabulary.
Collins, W. E., superintendent, Gateshead borough police force.
Gould, H. S., superintendent, Metropolitan Police.
Hodgson, A., superintendent and deputy chief constable, Bolton borough police force.
Pyke, L. C., chief inspector, Metropolitan Police.
Cheyne, G. H., chief constable, Orkney Constabulary.
Meldrum, A., chief constable, Angus Constabulary.
Thornton, F., detective head constable, Royal Ulster Constabulary.

PANTOMIME

Christmas and New Year have come and gone ; gastronomic joys have given place to repletion, the genial pleasures of giving and receiving to the tiresome duties of economic and financial planning. The Christmas-trees, despoiled of their glittering gifts, wear a bedraggled look ; the coloured paper-chains and tinsel decorations have lost their sheen, and the clusters of fairy-lights are dim. Tens of thousands of weary parents, uncles and aunts, torn between reluctance and relief, have resolutely closed their ears to the twittering excitement and high-spirited clamour of their offspring, their nephews and nieces, and face once more the stresses and strains of a wintry, workaday world. For them the glory has departed, and life wears again its drab, everyday clothes.

It is not yet so for the children, those princes and princesses of the Festivities. For them the Christmas-gifts still bear their glamour of newness ; the mystery of the bulging stocking in the darkness of a Christmas dawn, the crackle of the wrapping round the package, the first feel of the contents to their fumbling fingers—these memories are still with them, as rich in retrospect as in reality. And then, for the lucky ones, there is still the exciting prospect of another joy to come—a visit to the Pantomime.

The Land of Make-Believe has many ports of entry, where formalities are few and swift. Tickets are collected at the doors ; the carpeted gangway stretches ahead. The groups of small travellers are shepherded this way and that ; curtains are drawn aside ; places are found ; legs dangle from the red-plush seats. To childish eyes the theatre seems gigantic—a new world awaiting discovery : the roof, with its pendant chandelier, remote as the sky itself. While more and more children pour in, while families arrange and rearrange their places and finally settle themselves, the suspense is almost unbearable. What gorgeous spectacle does the hidden stage hold in store ? What Fairyland will be revealed when the lights are lowered, the chattering is hushed and the curtain slowly rises ?

Is it to be *Peter Pan*, that Epic of Immaturity, of the Boy Who Would Not Grow Up ? The story in itself is attractive to a child—Barrie once described his business in life as " playing hide-and-seek with angels." But the Pantomime is, or used to be, a mirror of the social scene, a topical satire, and the adult can never be quite sure whether the Author, behind his Celtic whimsicality, is not poking sly fun at the foibles of the English—at the slightly pompous *paterfamilias*, the idolized domestic pet, the mother in every woman, and the ever-adolescent male, with his childish interests, pastimes and pursuits. How little have our people really changed their ways in the forty-seven years since *Peter Pan* first appeared ! Flying through the air has become a commonplace, two wars have been fought and won, but Captain Hook and his pirates still lie in wait for us, and the alarm-clock, now concealed within the uranium atom, ticks ominously on. There are, it is true, no more friendly Redskins—their race is almost extinct ; the vast territories over which they once roamed are ruled by another people, outwardly sophisticated but almost as primitive at heart. In England Peter still dreams his dreams and refuses to grow up, while Wendy—the eternal feminine, as Goethe called her—still goes about her domestic tasks—the practical, everyday, essential things of life.

Most Pantomimes confine their interest to the romantic adventures of the Principal Boy in seeking his fortune, and to the hardships he has to surmount in wooing and winning his bride. This is perhaps just as well, for in the real world the subsequent married life of Prince and Princess Charming will not always bear close scrutiny. No Slave of the Lamp, in scornful defiance of Town Planning Regulations, is going to provide them with a ready-built home ; if they try living with the elderly Dame or the Ugly Sisters (whether on his side or

hers) she will rapidly revert to the *rôle* of Cinderella, with catastrophic effects on their happiness. They will be lucky indeed if they escape the overcrowding suffered by the family of The Old Woman Who Lived in a Shoe; and if relief does not come soon from the Fairy Godmother in the Ministry of Housing, they will resort increasingly to the Birth Control Clinic.

For all too many, once happy, couples full disillusionment comes with the Transformation Scene. Some will be revealed, turned and twisted this way and that, by forces they cannot control, in the Harlequinade of Divorce. The rigid conventions, the legalistic rules, the complex formalities; the subterfuges, the slapstick, the pathos—Columbine, Harlequin (and sometimes Pantaloon, to make up the triangle) play their part in all this, moving unconsciously, automatically, like puppets on a string. By the end all the humanity has been squeezed out of them; they have become Cases in the Law Reports.

For others the performance ends with *The Babes in the Wood*. There was a time, not so very long ago, in the heyday of humanitarian reform, when the tragic part of the story could still seem incredible, and everybody looked forward to an inevitably happy ending. Today we are in danger of becoming inured to stories of cruelty, to the tyranny of power, to the infliction of suffering by the strong upon the weak and helpless. In our very midst are the *dramatis personae*—the irresponsible parents in the poverty-stricken home; the cruel or indifferent foster-mother; dirt, starvation, violence; the neglected, unloved Babes, left to face alone the cold, the dark, the unknown terrors of the Wood. The allegory is too painful to pursue—all the more so because, in real life, the romantic figure of Robin Hood (who appears anachronistically in the Pantomime to restore the lost children to warmth, care and comfort) has his hands too full elsewhere. Nowadays he is a Welfare Officer under the Local Authority, and if the public conscience is stirred as it should be by the spectacle, his task must at all costs be given urgent priority, and he must be equipped with money and statutory powers sufficient to put an end to these horrors, which are a burning disgrace to our country and age.

* * *

So the Pantomime draws towards its close. With this reflection—that the youthful audience will one day themselves be actors on the stage—goes the devout hope that, by the time they are ready to make their entry, rigid rules of law, outworn (and often conflicting) dogmas will have given way to criteria solely based upon the lessening of suffering and the increasing of human happiness. A.L.P.

PERSONALIA

APPOINTMENTS

Mr. J. Basil Horsman, assistant solicitor to the Sheffield city justices has been appointed clerk to the Wigan county borough justices. Mr. Horsman, who is thirty-two, was admitted in March, 1950. Since June, 1950, he has served as hon. secretary of the National Association of Justices' Clerks' Assistants.

Mr. Douglas Atkinson has been appointed official receiver for the bankruptcy district of the county courts of Carlisle, Workington, Cockermouth, Whitehaven, Millom, Barrow-in-Furness, Ulverston and Kendal.

Mr. Hubert Stephenson Thompson, assistant director of education in Liverpool since 1946, has been appointed deputy education officer for Bristol. Mr. Thompson served in the Royal Corps of Signals during the war, holding the rank of lieutenant-colonel.

RESIGNATIONS

Mr. T. A. Cleaver, clerk of the Isle of Wight County Valuation Panel, has resigned owing to ill-health. His successor is Mr. E. J. Snape who will hold this appointment in addition to his present appointments of clerk of the Portsmouth Local Valuation Panel and of the Portsmouth and District Rent Tribunal.

Mr. G. F. Cane, deputy clerk of the Highworth (Wilts) R.D.C. for almost three years, has resigned in order to take up the post of deputy clerk to the Brackley R.D.C.

HONOUR

Mr. Richard Bury Ramsbotham, of Woodstock, Oxon, recently received the honorary freedom of Woodstock in recognition of his work in listing and preserving the town's historic documents. He was presented with an illuminated certificate and a bound and signed copy of the *Woodstock Guide*, of which he is the author.

RETIREMENT

Superintendent C. Hawkes of the Warwickshire Constabulary has retired. He has been in charge of the Solihull division for twelve years and has been with this Constabulary for more than thirty years.

OBITUARY

Mr. Edmund Rowson, K.C., died on December 18 at his home at Blackpool. He was sixty-four. He was called to the Bar in 1913, practising on the Northern Circuit. He took silk in 1947. In 1948 he became Recorder of Blackpool.

Mr. John Horridge died suddenly on December 27. Born in 1893, he was called to the Bar by Lincoln's Inn in 1922. In 1937 he was appointed a Master of the Supreme Court (King's Bench Division).

NEW COMMISSIONS

CAMBRIDGE COUNTY

Frank Johnson, Castle Farm, Gamlingay.
Arthur Gregory George Marshall, Horseheath Lodge Farm, Linton.
Mrs. Nora Wilson, Glenelg, Mill Lane, Linton.

HEREFORD COUNTY

Thomas John Hawkins, Thinghill Court, Withington.

LYMINGTON BOROUGH

Mrs. Mercy Stella Margaret Rossiter-Angell, Hordle Grange, Hordle, Lymington, Hants.
Stuart Gethin David, White Lodge, Milford-on-Sea, Hants.
Harry George Whitfield, 40, High Street, Lymington.

STALYBRIDGE BOROUGH

George Barnes, 190, Huddersfield Road, Stalybridge.
Mrs. Edith Grundy, Spring Bank, Mayley, Stalybridge.
Clifford Rigby, 6, Richmond Street, Ashton-under-Lyne.
George Sykes, 16, Grey Street, Stalybridge.
Mrs. Marjorie Storrs, 187, Mottram Road, Stalybridge.
Anthony Wynroe, Ashdale, Mottram Road, Stalybridge.

STRATFORD-ON-AVON BOROUGH

Dr. Scott Russell Trick, O.B.E., T.D., M.B., 5, St. Gregory's Road, Stratford-on-Avon.
Mrs. Nancy Heritage Watkins, The Old Vicarage, Chapel Lane, Stratford-on-Avon.

STAFFORD COUNTY

John William Ashley, Bleak House, 22, High Street, Chasetown, nr. Walsall.
Mrs. Annie Ratcliffe Colville Marindin, 12, Fairfield Road, Uttoxeter.
Frank Edward Pitt, 48, Corporation Street, Stafford.
Dr. Mildred Margaret Gray Russell, Oaklands, Etching Hill, Rugeley.
Leonard John William Wiles, School House, Coven, Wolverhampton.

SURREY COUNTY

Harold James Cunningham, Bevendean, Holt Wood Road, Oxshott, Surrey.
Dr. Stanley Evans Francis Gooding, 55, Ditton Road, Surbiton.
Cyril Douglas Smith, St. Andrews, 55, Hare Lane, Claygate.

NOTICE

The next court of quarter sessions for the city of Coventry will be held in the County Hall, Coventry, on Tuesday, January 15, 1952, at 11 *a.m.*

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Adoption—*Consent of mother of infant—Subsequent withdrawal—Letter received by court after order made.*

The application for the adoption of a child came before the juvenile court on November 21 last, when all the necessary evidence was given to the court by the adoptive parents, but the court adjourned the hearing until December 18, as it appeared to them from facts brought to their notice that the consent of the mother had been obtained under some pressure, and on those grounds the mother had informed the children's officer for the area in which the mother resided that she wished to withdraw her consent.

In order that the court might be completely satisfied as to whether in fact the mother did wish of her own free will to consent to the adoption, I arranged that the children's officer here should communicate with the children's officer in the district of residence of the mother so that the mother could be personally interviewed by the children's officer free from any outside influence and, if she consented to the adoption, that she should be taken by the children's officer there to a justice of the peace who could witness her signature to the form of consent.

The mother, who appears to be a very unreliable person, at one time told the children's officer that she was prepared to consent to the adoption, but later when she went before the justice of the peace to have her signature to the form of consent witnessed, she told the justice that she was not prepared to consent, and consequently the justice refused to witness her signature.

That being so, the mother was written to by the children's officer here again reminding her of the adjourned hearing on December 18 and informing her that if she wished to object to the adoption she should personally attend in court so as to satisfy the court that the original consent completed by her was not in accordance with her wishes.

The mother did not attend at the hearing on September 18 and the court, having given the gravest consideration to this case, and being satisfied, as would appear to be certainly the fact, that the child would be much better off in every respect as a result of the adoption, finally made the order.

It has now transpired that the mother in fact did write a letter stating that she was unable to come to the court on September 18, and that she did object to the order being made. That letter was posted by her on September 16 addressed to one of the justices, who is mayor, at this office, but unfortunately that letter was delivered to the mayor's parlour and it would seem that the mayor carried it about in his pocket until after the hearing on September 18.

It is quite possible that had that letter reached the court before the hearing, the justices who made the order might have decided against making it, at any rate for the time being, and they feel most dissatisfied that they should have remained in ignorance of that letter.

The justices concerened are arranging to meet in a few days time to discuss the matter generally.

I am unable to find any authority for revoking an order once made.

Sss.

Answer.

The court, having made the order, cannot revoke it. It seems rather a pity that when the doubt as to the mother's consent arose the court did not require her personal attendance, as we think there were special circumstances within the meaning of r. 10 of the Adoption of Children (Summary Jurisdiction) Rules, 1949. Then the court could have satisfied itself on the question of her consent, whether it was given or whether there was ground for dispensing with it if not given.

It is not stated how the consent was proved at the first hearing. The provisions of s. 4 (3) of the Adoption Act, 1950 must always be borne in mind.

We think the mother's only remedy, if indeed she has one, is to apply to the High Court for *certiorari* if she contends that the order is invalid because of the absence of her consent.

2.—Children and Young Persons—*Supervision order—Education Act, 1944—Whether period may be less than twelve months.*

The effect of s. 40 (3) and (5) of the Education Act, 1944, is that for the purpose of securing the regular attendance of a child at school such child may be brought before a juvenile court which can make an order under s. 62 of the Children and Young Persons Act, 1933. Under para. (*d*) of this section, a court may make a supervision order for a period of not exceeding three years.

Early in September, 1951, a girl then aged fourteen years nine months was brought before a juvenile court. As the purpose is to secure the regular attendance of the child at school the juvenile court made a supervision order to expire on December 22, 1951, *i.e.*, at the end of the term following the girl's attaining the age of fifteen years.

The probation officer for the petty sessional division concerned contends that by virtue of ss. 3 and 74 of the Criminal Justice Act, 1948, the period of the supervision order cannot be for a less period than one year. Will you please advise :

(*a*) If, in the case in question, an order can properly be made for a period of less than twelve months.

(*b*) If the order must be made for at least twelve months, assuming that the child attends school regularly and behaves herself between now and the end of school term, should the probation officer then make an application to the juvenile court to discharge the order ?

(*c*) Generally.

SCH.

Answer.

We consider the order as made is perfectly lawful. The provisions of the Criminal Justice Act, 1948, relating to probation orders are not all applied by that Act to supervision orders, but only those indicated in s. 74. These do not include s. 3 (1), and the period of a supervision order may therefore still be such as is authorized by s. 62 of the Children and Young Persons Act, 1933.

3.—Contract—*Enforcement—County Court—Service of process in Northern Ireland.*

We act for a client who agreed to sell to a firm in Belfast certain goods. The contract was made by post as a result of the insertion by our client of an advertisement in a trade journal. It was a condition of the contract that the seller should arrange transport by sea to Belfast at the buyers' expense, and by rail from this town to the English port. The seller resides and carries on business here, and the goods were here when the contract was made. These conditions were duly complied with, and delivery by the Railway Executive to the steamship company and by the steamship company to the buyers can be proved. The buyers have refused or neglected to pay the amount due under the contract, which is within the county court limits, and payable here. It would be proper to commence proceedings in our local county court by a default summons, were it not for the difficulty caused by the buyers' residence. Order 40 of the County Court Rules, 1936, would apparently allow application for service of an ordinary (not default) summons under conditions specified in Order 41. The only paragraph of Order 41 which seems applicable is (*e*), and service in Northern Ireland is apparently excluded by the closing words. Order 43 deals with applications for service in Scotland and Northern Ireland, but it seems to us that Order 43 is relevant only to applications made under Orders 40 and 41. Unless the application can be brought under one of the paragraphs in Order 41, it does not seem as though Order 43 will apply. If we are correct in our deductions, it seems that our client has no remedy except such as the courts of Northern Ireland may provide. Do you agree, please ?

AJAZ.

Answer.

Yes : there is some difficulty about reading together rule 41 (*e*) and rule 44, as there is about the parallel provisions in R.S.C. XI, rule 1 (*e*) and rule 2. But the difficulty has been there for generations, and has been settled by the High Court in the sense you indicate : *see* the notes to the R.S.C. (both rules) in the *Annual Practice*.

4.—Highway—*Covered channels across pavements—Liability for repair.*

In this borough, in many places, the arrangement for the flow of surface water from the roofs of houses is that the water goes along the house guttering, through the down pipe, and straight into a metal channel let into the pavement, through this channel into the street gutter, and then away in the normal manner.

The metal channels which cross the pavement are fitted with metal cover plates about four inches wide, and these fit flush with the pavement, becoming part of the actual surface. Part II of the Public Health Act, 1925, is in operation in the borough. Many of the channels, with their metal covers, have probably been in position for over fifty years. I am in doubt whether liability for the repair of these covers rests with the owner of the premises abutting on to the street, or with the council. May I please have your advice.

A. CUP.

Answer.

These metal-covered channels are common in some areas, but their status does not seem to have been decided. They are so arranged that the public are invited to walk on them, *i.e.*, are dedicated to use

as part of the highway, and the better opinion seems to us to be that they vest in the local authority under s. 149 of the Public Health Act, 1875.

5.—Husband and Wife — *Maintenance Orders (Facilities for Enforcement) Act, 1920—Order made in England—Husband now abroad—Variation.*

Mrs. A obtained an order against her husband in the magistrates' court on the grounds of desertion. At the time of the order, which was June of last year, the husband was working in this country, but since the order the husband has gone abroad to Kenya to work for the East African Railways, and is in receipt of an income exceeding the income he received when the order was made. There is one child of the marriage and Mrs. A now desires to institute proceedings at the court in this country where the order was made, for a variation of the order by increasing the weekly payments to herself and the child on the ground that the husband's means have considerably increased. We shall be glad if you could please let us know the procedure which has to be adopted for the issue and service of the summons and the hearing.

SAD.

Answer.

The first step is to cause the order to be registered in Kenya under s. 2 of the Maintenance Orders (Facilities for Enforcement) Act, 1920. Kenya has passed reciprocal legislation, and it may be assumed that there are similar provisions there to those contained in s. 1 of the Act as to enforcement. As to the power to vary a registered order, there is some difference of opinion. One view is that as the Act makes no specific provision for variation of a registered order, and as no English summons can be served abroad, an order made in England and registered abroad cannot be varied : *see* an article at 106 J.P.N. 399. The other view is that the term " maintenance order " may be interpreted as including an order varying a maintenance order, and that the court is justified in making a provisional varying order, following the procedure laid down in s. 3, which order will be transmitted abroad and will be of no effect unless and until confirmed.

We still feel doubt as to the correct view, but the statute should be made to work if possible ; if the justices hear the application and, if they are satisfied, make a provisional order of variation, we understand the Home Office will transmit the documents through the prescribed channels with a view to confirmation of the order in Kenya.

6.—Husband and Wife—*Order made by Divisional Court on appeal—Variation and enforcement.*

A woman applied for a maintenance order against her husband under the Summary Jurisdiction (Separation and Maintenance) Acts and the justices refused the application. The woman appealed to the Divisional Court against the decision of the justices when the Appeal Court set aside the justices' order dismissing the complaint and ordered the husband to pay maintenance to the wife through the collecting officer appointed by the justices, instead of remitting the case to the justices to make an order.

The husband failed to pay under the order.

1. Can the justices deal with an application for variation ?
2. Can the wife enforce payment of the arrears before the justices ?
3. If the answer to 1 and 2 is in the affirmative is the leave of the High Court necessary ?
4. If the justices can vary and enforce what is their authority ?

S.B.

Answer.

Rule 71 (6) of the Matrimonial Causes Rules, 1950, provides that the Divisional Court may on appeal give any judgment or make any order which ought to have been made. In our opinion an order so made may be treated as if it had been made by the court of summary jurisdiction. If this be so, our answers are :

1. Yes.
2. Yes.
3. No.
4. We think the order becomes an order made under the Summary Jurisdiction (Separation and Maintenance) Acts, enforceable under s. 9 of the Act of 1895. As to variation, if the order is to be treated as if made by the summary court, s. 7 of the Act of 1895 and s. 30 (3) of the Criminal Justice Administration Act, 1914, would apply.

7.—Landlord and Tenant—*Agricultural holding—Greater hardship—" Same person "—Executor or administrator.*

We act for the administrators of the estate of a deceased person who was the owner of a smallholding subject to a tenancy affected by the Agricultural Holdings Act, 1948. The tenancy was created more than ten years ago. The administrators have served a notice to quit, but anticipate a counter-notice from the tenant under s. 24 (1) of the Act. In that case, the administrators will have to rely on the provisions of s. 25 (1) (*d*) and hope to be able to satisfy the Minister as to greater hardship in the circumstances of this case. A difficulty occurs in connexion with the provision that to obtain the benefit of this section it must be shown that the same person was the landlord on August 6, 1947, as on the date when the notice to quit was given. We are in some doubt whether it could be maintained that the administrators of the estate of the person who was landlord on August 6, 1947, are " the same person " as the landlord himself. Does the representative capacity of the administrators render them, for the purposes of this section, " the same person " as their deceased ? We should be glad to have your views.

AMC.

Answer.

We can find no judicial guidance. It is possible that a person whose title arises under a will or intestacy, by way of assent, is not the " same person " as his predecessor, and that this result was deliberately produced (contrast *Baker* v. *Lewis* [1946] 2 All E.R. 592, and the statutory language there in question). But we incline to the view that an executor or administrator is the " same person " as the testator or intestate, for the present purpose.

8.—Licensing—*Special order of exemption—Whether there is power to grant otherwise than on one of the appointed court days.*

My petty sessional court sits once every fortnight and a calendar of the dates is published and circulated to interested persons, including all licensees, at the beginning of the year.

The question has now arisen whether a special order of exemption under s. 57 of the Licensing Act, 1910, can be granted otherwise than on one of the petty sessional court days when two or more magistrates are sitting in the petty sessional court house.

My present opinion is that there is no authority for the magistrates to grant a special order of exemption except as mentioned above, in contra-distinction to their powers to grant consent for an occasional licence under s. 64 of the Licensing Act, 1910.

I should greatly appreciate your view on the matter.

NIPPON.

Answer.

The local authority empowered to grant a special order of exemption under s. 57 of the Licensing (Consolidation) Act, 1910, outside the metropolis and the city of London, is a petty sessional court (*see* s. 55 (4) of the Act). A " petty sessional court " is defined in s. 13 (12) of the Interpretation Act, 1889, as a court of summary jurisdiction consisting of two or more justices when sitting in a petty sessional court house, *i.e.*, a court house or other place at which justices are accustomed to assemble for holding special or petty sessions. There is no requirement that the sitting shall be on specially appointed days, and we think that a court may be assembled between the fortnightly days which have been appointed.

We do not think that the analogy with the proviso to s. 64 (1) of the Act is sound. This was a " saving " introduced in 1902 prior to which the consent to the grant of an occasional licence was given by one justice usually acting at the petty sessions and was the subject of grave objection because of the facility with which a justice acting alone at his private house or elsewhere would give the required consent. The most that we are prepared to advise by analogy to the proviso to s. 64 (1) of the Act is that application for a special order of exemption must be made to a court which actually is sitting as such ; but that the law places no obligation for a petty sessional court to be held merely because a licence-holder seeks to make application for an order under s. 57.

9.—Local Government Staff—*Employment of Consultant Architect.*

An urban district council is considering the employment of a consultant architect to prepare a development plan of a section of the district which is to be developed *inter alia* for housing purposes. The consent of the Minister of Local Government and Planning to borrow for housing purposes in respect of the architectural fees to be incurred has been refused, on the ground that the scheme appears to be for planning and redevelopment of the area. It is considered by the council that the proposed sketch scheme can be distinguished from the preparation of a development plan under Part II of the Town and Country Planning Act, 1947, which function would be that of the county council as the local planning authority, and that the local authority has a right incidental to its housing and general functions to incur expenditure on expert advice relating to particular areas of development within the district. Section 107 of the Local Government Act, 1933, gives power to urban district councils to appoint such other officers as the council think necessary for the efficient discharge of the functions of the council.

Accordingly the urban district council is proposing to charge the expenditure to the general rate fund as expenditure incurred in its general administration of the district.

Opinion is desired :

1. Whether an urban district council would be acting *intra vires* in

employing a consultant architect to prepare a development plan of an area within the district which is to be developed *inter alia* by the erection of council houses.

2. Whether the fees payable to such consultant would be a proper charge to revenue account in the general rate fund. A. CHASE.

Answer.

1. Yes, as regards *vires*. The employment can be regarded as that of an "officer," or can be regarded as a contract to which s. 266 (1) applies.

2. Yes, assuming the employment to be "necessary" (s. 266 (1)) or "necessary for the proper discharge of the functions" (s. 107 (1)). We do not overlook the words "as the council think," in s. 107 (1) but this phrase does not give them a completely free hand: *Roberts* v. *Hopwood* (1925) 89 J.P. 105.

10.—Master and Servant—*Apprentice—Absent sick—Effect on time served.*

M bound himself to serve as an apprentice to a limited company for the "full end and term of five years" from the date of the deed. The term expires in length of actual time shortly. During the whole of the period M was absent sick for about four months. His masters claim that he has to serve this additional time. There is no covenant as to absence owing to sickness, and in fact no wages have been paid to M when he has been so absent. It appears to be the company's policy to require apprentices to continue serving in this way, as this is not the first such case. There appears to be a complete absence of direct authority on the point. Our own opinion is that the term is continuous and that only such an illness as will frustrate the object of the apprenticeship, that is one of some length and not ordinary sickness, will be sufficient to justify the company's intended action. We shall be pleased to have your views on the position.

ACTION.

Answer.

We have not found a decision directly in point, but the principle of the cases of *Cuckson* v. *Stones* (1858) 28 L.J.Q.B. 25; *Carr* v. *Hadrill* (1874) 39 J.P. 246; and *Warren* v. *Whittingham* (1902) 18 T.L.R. 508 seems to us to extend to apprenticeship, as to other forms of service, and to support your opinion.

11.—Police Property Act—*Money in possession of police—Proceeds of false pretences.*

On July 5, 1951, X was charged with:

(1) Obtaining at S on June 12, 1951, from FA, a Standard 12 motor car, valued at £280 by means of a worthless cheque.

(2) Obtaining at C on June 20, 1951, from KM, auctioneers, a Wolseley shooting brake, valued at £165.

(3) Obtaining at K on June 21, 1951, from HF, a Singer Le Mans motor car, valued at £260 by means of a worthless cheque.

Six other offences of false pretences were taken into consideration, and X was committed to prison.

At the time of his arrest X had in his possession the sum of £75 in cash which he stated was money left from the proceeds of the sale of the Singer motor car. This money is now in the possession of the chief constable.

The losers of the three cars have applied to the justices for an order under s. 1 of the Police Property Act, 1897.

In as much as all three cars were obtained by false pretences, the property in them passed to X and he transferred a good title to the purchasers of the cars from him.

It therefore appears to the writer that the £75 was, in fact, the property of X.

Having regard to the wording of s. 1 of the Police Property Act, 1897—"make an order for the delivery of the property to the person appearing to the magistrate or court to be the owner thereof, or, if the owner cannot be ascertained, make such order in respect of the property as to the magistrate or court may seem meet," your advice is sought on the following questions:

(*a*) Is this sum of £75 property within the meaning of the section?

(*b*) Can the loser of the Singer car, X having admitted that the £75 was the balance of the proceeds of sale of that car, be regarded as the owner of the money?

(*c*) If not, is it competent for the court to make an order directing the chief constable to pay to the three losers such part of the £75 as is proportionate to their respective losses?

(*d*) Alternatively, is X the owner of the £75 and would it be incompetent for the court to make any order under s. 1 of the Act? TABLE.

Answer.

(*a*) In our opinion, yes, *see* a question and answer at 108 J.P.N. 490.

(*b*) We think not. He is rather in the position of a person who has a right of action to recover money.

(*c*) We think not, because we do not consider them to be owners.

(*d*) That is our opinion.

12.—Public Health Act, 1936—*Statutory nuisance—Defective water closet—Owner or occupier.*

A house is leased by the owner to a tenant at a monthly rent, a covenant of the lease being that the tenant shall keep the interior of the premises, water closets . . . in good repair and condition and to do all repairs and work necessary to keep same in such repair and condition. A sanitary inspector visits the premises and finds that the pan in the W.C. is cracked. It is a wash down pan fixed with cement base to the floor and connected by the flush pipe to the water system and cemented to the drain. The authority contend that the pan is part of the structure of the premises as it is a part of the drains, and as a result of the defect in it the premises are in such a state as to be prejudicial to health within s. 92 (1) (*a*) of the Public Health Act, 1936. The authority propose to serve an abatement notice on the owner under s. 93 of the Act requiring him to provide a new pan as the defect is of a structural character. The authority contends that although ss. 44 and 45 of the Act deal specifically with closets the opening words of s. 92 "Without prejudice to the exercise by a local authority of any other powers vested in them by or under this Act . . ." give to the authority a discretion as to the procedure to be adopted.

The owner contends that the lessee should provide the new pan (it is not clear by whose default the defect arose) by virtue of the covenant in the lease: that the procedure under s. 93 is not appropriate as the local authority must proceed under either s. 44 or s. 45 which will give him a right of appeal to a court of summary jurisdiction against the requirements of the authority; and that a W.C. pan is not part of the "structure" of the premises as it is a sanitary fitting which cannot be said to be "built" and is a landlord's fixture; that the authority should therefore serve any notice on the person by whose act, default, or sufferance the nuisance arises or continues.

ACC.

Answer.

The arguments on both sides seem confused, and we do not wholly agree with either party. Proviso (*a*) to s. 93 does not say "any defect in the structure of the building," but "any defect of a structural character." Such a defect might exist in a landlord's fixture. On the other hand, a closet pan is certainly not "part of the drains": *see* the distinction drawn in s. 61 (1) (ii) (*d*) (and even more clearly

in its predecessor, s. 157 of the Public Health Act, 1875). On the main points, we do not think that a local authority is precluded from using the nuisance sections, in a case where s. 44 or s. 45 could be used, but we regard the use of these specific powers as more in accordance with the intention of the Act. If, however, the defect in the pan is so bad that s. 44 is the appropriate section, they must go against the owner, leaving him to his contractual remedy against the tenant.

13.—Public Utilities Street Works Act, 1950—*Water Act*, 1945—*Incorporation of Waterworks Clauses Acts in undertakers' special Acts—Whether owner or occupier of dwelling-house has right to open the carriageway as "undertaker."*

The Waterworks Clauses Acts were repealed *in toto* by the Water Act, 1945, but until an order has been made by the Minister applying sch. 3 to the Water Act, 1945, to particular undertakers the Clauses Acts will, in so far as they are incorporated in the undertakers' special Acts, continue to apply to the works of such undertakers: *vide* 113 J.P.N. 321, P.P. 9. Certain parts of sch. 3 are by sch. 4 incorporated with the Public Health Act, 1936, and such parts, which include provisions as to the opening up of streets, will operate to prohibit the opening up of a street by an owner requiring a supply of water, for the purpose of laying a service pipe, where the water supplier is a local authority within the meaning of the 1936 Act. By s. 52 of the Waterworks Clauses Act, 1847, an owner or occupier of a dwelling-house or part of a dwelling-house within the limits of the special Act who wishes to have a supply of water from the undertakers' pipes may open or break up so much of the pavement (which includes the carriageway—*Glover* v. *East London Waterworks Co.* (1868) 32 J.P. 280) of any street as shall be between the pipes of the undertakers and his house, etc., provided that such owner or occupier shall be in the same position as the undertakers *vis-a-vis* the street authority as to notices, etc. By s. 39 of the Public Utilities Street Works Act, 1950, "undertakers" means the authority, body, or person by whom a statutory power to execute undertakers' works is exercisable, in the capacity in which that power is vested in them, and "undertakers' works" as defined in s. 1 (2) includes the laying of a service pipe for supplying water to a dwelling-house. It appears, therefore, that, although the intention of the legislature in the 1950 Act was presumably to restrict the right to open up streets to undertakers in the ordinary sense, s. 52 of the 1847 Act may still be operative in a district where water is supplied by statutory undertakers other than a local authority and an order applying sch. 3 to the 1945 Act to such undertakers has not been made by the Minister, so that a private person covered by that section may have the right to open up the carriageway of a street, subject to compliance with the street works code.

ALD.

Answer.

It is an unexpected conclusion but we are inclined to think it is correct.

14.—Railways—*Fraudulent travelling—Venue.*

The Note of the Week *A Question of Venue* at 115 J.P.N. 545, *ante*, brings to mind cases of travelling on the railway without a ticket or with an out-of-date ticket, contrary to s. 5 of the Regulation of Railways Act, 1889. Do you consider that s. 46 of the Summary Jurisdiction Act, 1879, applies to such cases?

Bearing in mind that such offences are frequently detected by a travelling inspector whilst the train is in motion, the place of detection (including the county) and the place at which the alleged offender alights from the train being unknown, will you kindly advise also:

(*a*) As to venue, and

(*b*) As to the place of offence to be inserted in the summons.

SAT.

Answer.

Where the offence alleged is travelling without previously paying the fare and with intent to avoid payment, proceedings can be brought in a court acting for any place in which such travelling took place, which may be at the beginning of the journey or during the course of it right up to the end of the journey. There should be no difficulty about alleging the offence as having taken place wherever sufficient evidence establishes that some part of it took place. It does not appear that s. 46, *supra*, is in point.

15.—Road Traffic Acts—*Speed limit in built up areas*—1934 *Act, s. 1—Application of the provisions of s. 21 of the 1930 Act.*

If the driver of a motor vehicle contravenes s. 10, Road Traffic Act, 1930, s. 21 of the same Act applies. Does the latter section also apply when the driver of, say, a private motor car, contravenes s. 1 of the Road Traffic Act, 1934, which imposes a speed limit of thirty miles per hour in a built-up area? JILL.

Answer.

Yes—by s. 1 (2) of the 1934 Act a person who exceeds the speed limit in a built-up area is to be deemed guilty of an offence under s. 10 of the 1930 Act. Therefore, s. 21 of the 1930 Act applies to such cases.

16.—Sunday Cinematograph Entertainment—*Period of validity of licence.*

Under s. 2 (2) of the Cinematograph Act, 1909, a licence granted by a county council shall be in force for one year or for such shorter period as shall be determined. Under s. 1 of the Sunday Entertainments Act, 1932, power is given to the authority which grants licences under the 1909 Act to allow cinematograph entertainment on Sundays, subject to certain conditions. The precedent contained in *Oke's Magisterial Formulist* for a Sunday cinematograph licence is worded in regard to para. 1 as follows: "This licence shall remain in force until the .....day of .....195.... [or until such time as the authority shall give notice in writing determining the same.]

The question for consideration is: can such a licence be granted for a period in excess of a year, alternatively for an indefinite period (as the precedent implies) which could be in force for several years?

N. ARCOS.

Answer.

Section 1 of the Sunday Entertainments Act, 1932, does not in terms mention a licence, but empowers a licensing authority under the Cinematograph Act, 1909, to "allow" places licensed under that Act to be opened and used on Sundays for cinematograph entertainments. As it is usual to impose conditions (in addition to the statutory conditions) differing from the conditions attaching to the "parent" licence, it is a convenient practice for a separate licence relating to Sundays to be granted. It is customary to grant this licence for one year so as to expire, subject to renewal, concurrently with the licence granted under the Cinematograph Act, 1909, but there is nothing in the section to prohibit a licensing authority "allowing" Sunday cinematograph entertainments for an unspecified period, governed only by there continuing in force a licence under the Cinematograph Act, 1909.

17.—Tort—*Injury to pupil in playground—Liability of school authority.*

We are acting for a boy aged twelve years who recently sustained a very serious injury by reason of a wound caused by a sheath knife wielded by another boy of similar age, the injury having been sustained in the playground at the school where both boys were pupils. We have been informed that earlier this year in the north of England, presumably at Assizes, damages were awarded to a boy who was injured in almost identical circumstances, but we have not been able to trace any report of the case in question. We should greatly appreciate any information you can give us as to the case we are seeking, and also for your referring us to any authorities bearing upon the liability of governors of a school for damages for negligence, lack of supervision, etc., in circumstances such as those briefly described. ABBB.

Answer.

We have not found the Assize case you mention. So much may turn upon facts (particularly in a court of first instance, above all with a jury) that the precedent might or might not be helpful to you, as against *Shepherd* v. *Essex County Council* (1913) 29 T.L.R. 303; *Ricketts* v. *Erith Corporation* (1944) 108 J.P. 22. There is quite a large number of cases more or less bearing on your problem, of which *Ralph* v. *L.C.C.* (1947) 111 J.P. 548 is apparently the latest. The judgments given in the cases of 1944 and 1947 summarize the earlier decisions.

18.—Water Charges—*Overcharge—Repayment to consumers.*

Certain consumers in the undertakers' area of supply had before 1932 automatic apparatus on the premises supplied by two small meters, the rest of the premises being charged water rates in accordance with the net annual value. In 1932 the two small meters were removed and a large one substituted which measures the quantity of water supplied to the whole of the premises and not the automatic apparatus only. Owing to a recording error accounts have been sent half-yearly since this date and paid by the consumers for both consumption through meter and the rate based on net annual value. This latter charge should have been deleted when the larger meter was connected. The undertakers supply under the powers of their private Act of Parliament and the Water Acts, but not the Public Health Acts.

This matter has been brought to light in the course of an internal audit and your opinion is requested as to how much, if any, of the overpayment (the rate based on net annual value) can be recovered by the consumers. AQUA.

Answer.

On the information given, the consumers can recover up to six years, but the undertakers can refund all the overpayments.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

MIDDLESEX COMBINED PROBATION AREA

Appointment of Senior Probation Officer

APPLICATIONS are invited for the appointment of a Senior Probation Officer. Applicants must be serving Probation Officers with experience. Salary according to Probation Rules 1949/1950, with £30 per annum Metropolitan addition and seniority allowance, at present £90 per annum. Subject to superannuation deductions, and medical assessment. Motor car allowance provided. Application forms from the undersigned to be returned by January 26, 1952 (quoting K.297 J.P.).

C. W. RADCLIFFE,
Clerk to the Probation Committee.

Guildhall,
Westminster, S.W.1.

MIDDLESEX COMBINED PROBATION AREA

Appointment of Male and Female Probation Officers

APPLICATIONS are invited for the appointment of Male and Female Probation Officers. Applicants must be not less than 23 nor more than 40 years of age, except in the case of a serving Probation Officer. Salary according to Probation Rules, 1949/50, with £30 per annum Metropolitan addition. Subject to superannuation deductions, and medical assessment. Motor car allowance provided. Application forms from the undersigned to be returned by January 26, 1952 (quoting K.290 J.P.).

C. W. RADCLIFFE,
Clerk to the Probation Committee.

Guildhall,
Westminster, S.W.1.
December, 1951.

HAVANT AND WATERLOO URBAN DISTRICT COUNCIL

Assistant Solicitor

APPLICATIONS are invited for the above appointment at a salary (according to date of admission) in accordance with Grade A.P.T. V(a)—VII of the National Joint Council's scale of salaries. Previous local government experience not essential. The appointment will be subject to the Local Government Superannuation Act, 1937, and a medical examination will be required.

Applications, with names of two referees, must reach the undersigned not later than January 19, 1952.

Canvassing will disqualify.

B. R. W. GOFTON,
Clerk of the Council.

Town Hall,
Havant.
December 24, 1951.

WEST DEAN RURAL DISTRICT COUNCIL

Appointment of Engineer and Surveyor

THE Council invite applications for the appointment of Engineer and Surveyor at a salary to be fixed within the scale of the Joint Negotiating Committee for Chief Officers (£750—£1,000). The population of the area is 18,173. An allowance in respect of travelling expenses will be made on the usual scale up to 10 h.p.

Applicants must be Corporate Members of the Institute of Civil Engineers, or hold the testamur of the Institute of Municipal and County Engineers, or an equivalent professional qualification.

The duties will include the design of Council houses, the supervision of contractors and the settlement of their accounts, the design, installation and management of water works and sewerage works, the administration of building byelaws and town planning matters, and any other duties which may be assigned to the office.

Housing accommodation will be made available if required by the successful applicant.

The appointment will be subject to three months' notice, on either side and to the provisions of the Local Government Superannuation Act, 1937.

Applications, giving full particulars of age, experience, previous local government service and the date upon which the applicant could commence duties, with the names of two persons as referees, must be received by the undersigned not later than Monday, January 21, 1952.

H. A. JONES,
Clerk to the Council.

Council Offices,
Coleford, Glos.

HAMPSHIRE COUNTY COUNCIL

APPLICATIONS are invited for the appointment of unadmitted Law Clerk on the staff of the Clerk of the County Council in Grade IV (£530—£575) of the National Salary Scales. Applicants should have had good experience of conveyancing and general practice in a solicitor's office.

The post is pensionable and appointment will be subject to the receipt of a satisfactory medical report.

In approved cases the County Council are prepared to assist newly appointed members of the staff to meet removal and other expenses.

Applications, stating age, education, qualifications and experience, and giving the names of two persons to whom reference may be made, should reach me not later than January 17, 1952. Canvassing, either directly or indirectly, will disqualify.

G. A. WHEATLEY,
Clerk of the County Council.

The Castle,
Winchester.
December, 1951.

EAST NORFOLK PROBATION AREA

Appointment of Full-time Male Probation Officer

THE East Norfolk Probation Area Committee invites applications for the appointment of a full-time probation officer to be stationed at Norwich.

The appointment and salary will be subject to the Probation Rules 1949 and 1950, and the selected candidate will be required to pass a medical examination, and to act under the supervision and direction of the Senior Probation Officer for the Area. Travelling allowances are payable.

Applications, stating age, qualifications and experience, together with the names and addresses of two persons to whom reference can be made, should be received by the undersigned not later than January 19, 1952.

H. OSWALD BROWN,
Secretary to the East Norfolk Probation Area Committee.

County Offices,
Thorpe Road,
Norwich.

NORFOLK COUNTY COUNCIL

APPLICATIONS are invited for the appointment of Junior Assistant Solicitor in the department of the Clerk of the County Council. Applicants should have a good general experience of legal work, and in particular of conveyancing and advocacy. The salary will be in accordance with Grades Va or VII, namely £600 × £20 to £660 or £684 × £25 to £760 per annum according to experience.

The appointment is on the permanent staff and subject to the Local Government Superannuation Acts; a medical examination will be required. Applications, accompanied by the names and addresses of three persons to whom reference can be made, should be made on forms obtainable from this Office, and should reach me within fourteen days of publication of this advertisement.

H. OSWALD BROWN,
Clerk of the County Council.

County Offices, Thorpe Road, Norwich.

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